Seventh Fleet
FPO San Francisco 96601
Commander
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Commander Amphibious Force
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Commander
US Naval Support Force Antarctica
FPO San Francisco 96601
Commanding General
III Marine Amphibious Force FMF
FPO San Francisco 96602
Commanding General
1st Marine Aircraft Wing
FPO San Francisco 96602
Commanding General
3D Marine Division FMF
FPO San Francisco 96602
Commanding Officer
Camp H M Smith US Marine Corps
FPO San Francisco CA 96610
Commanding Officer
Fleet Intelligence Center
Pacific
FPO San Francisco 96610
Commanding General
Fleet Marine Force Pacific
FPO San Francisco 96610
Commanding Officer
Human Resource Management Center
FPO San Francisco 96610
Commander
Marine Corps Base Pacific
FPO San Francisco 96610
Commander
Naval Base
Box 110
FPO San Francisco 96610
Commanding Officer
Naval Investigative Service Office
Pacific Box 76
FPO San Francisco 96610
Commanding Officer
Naval Legal Service Office
Box 124
FPO San Francisco 96610
Commander
Naval Logistics Command
US Pacific Fleet
FPO San Francisco 96610
Commanding Officer
Naval Station
FPO San Francisco 96610
Commanding Officer
Naval Submarine Base
FPO San Francisco 96610
Commanding Officer
Naval Submarine Training
Center Pacific
FPO San Francisco 96610
Officer in Charge
Navy Finance Office
FPO San Francisco 96610
Commander
Submarine Force
US Pacific Fleet
FPO San Francisco 96610
Commander
Third Fleet
FPO San Francisco 96610
Commander in Chief
US Pacific Fleet
FPO San Francisco 96610
Commanding Officer
Naval Air Station
Barbers Point
FPO San Francisco 96611
Commanding Officer
Marine Corps Air Station
FPO San Francisco 96615
Commander
US Naval Base
FPO San Francisco 96630
Commander
US Naval Forces Marianas
FPO San Francisco 96630
Commanding Officer
US Naval Legal Service Office
COMNAVMARIANAS
FPO San Francisco 96630
Commanding Officer
US Naval Hospital
FPO San Francisco 96630
Commanding Officer
US Naval Station
FPO San Francisco 96630
Commanding Officer
U.S. Naval Dental Clinic
FPO San Francisco 96630
Commanding Officer
US Navy Personnel Support
Activity Guam
FPO San Francisco 96630
Commanding Officer
US Naval Air Station
FPO San Francisco 96637
Commander
US Naval Forces Philippines
Box 30
FPO San Francisco 96651
Commanding Officer
US Navy Personnel Support
Activity Philippines
Box 45
FPO San Francisco 96651
Commanding Officer
US Naval Legal Service Office
US Naval Base
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U.S. Naval Dental Clinic
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Commanding Officer
US Naval Communication Station
FPO San Francisco 96685
Commanding Officer
Naval Security Group Activity
APO Seattle 98742
Commander
Fleet Activities
FPO Seattle 98762
Commanding Officer
US Naval Communication
Station Box 3
FPO Seattle 98762
Commander
US Naval Forces Japan
FPO Seattle 98762
Commanding Officer
US Naval Legal Service Office
COMNAVFORJAPAN
FPO Seattle 98762
Commanding Officer
US Navy Personnel Support Activity
Far East
FPO Seattle 98762
Commanding Officer
Marine Corps Air Station
FPO Seattle 98764
Commanding Officer
US Naval Dental Clinic
FPO Seattle 98765
Commanding Officer
US Naval Hospital
FPO Seattle 98765
Commander Fleet Air
Western Pacific
FPO Seattle 98767
Commander
Fleet Activities/US Naval Air
Facility
FPO Seattle 98770
Commanding Officer
US Marine Corps Air Station
(Helicopter)
FPO Seattle 98772
Commanding General
Marine Corps Base
Camp Smedley D Butler
FPO Seattle 98773
Commanding Officer
Naval Security Group Activity
FPO Seattle 98777
Commanding Officer
U S Naval Hospital
FPO Seattle 98778
Commanding Officer
US Naval Dental Clinic
FPO Seattle 98778
Commanding Officer
US Naval Station
FPO Seattle 98791

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May 16, 1986

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Airworthiness Standards; Fire Protection Requirements for Cargo or Baggage Compartments; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 24185; Amdt. No. 25-60]

Airworthiness Standards; Fire Protection Requirements for Cargo or Baggage Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment upgrades the fire safety standards for cargo or baggage compartments in transport category airplanes by establishing new fire test criteria and by limiting the volume of Class D compartments. This amendment is the result of research and fire testing and is intended to increase airplane fire safety.

EFFECTIVE DATE: June 16, 1986.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, Regulations Branch (ANM-112), Transport Standards Staff, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2112.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 84-11, which was published in the **Federal Register** on August 8, 1984 (49 FR 31830). The notice proposed to upgrade the fire safety standards for cargo or baggage compartments in transport category airplanes by establishing new fire test criteria and by limiting the volume of Class D compartments.

As discussed in the notice, there are five classes of cargo compartments (Class A, B, C, D, and E) in the existing Part 25 regulatory classification system. The classification of compartments is based primarily on the ease of access and the capability of the compartment to contain a fire. With the exception of the Class A compartment, all categories of cargo compartments are required to have liners in order to protect the structural integrity of the airplane from the effects of fire.

The FAA conducted a series of tests at its Technical Center to investigate the capability of three typical liner materials to resist flame penetration under conditions representative of actual cargo or baggage compartment fires. The tests were conducted in simulated Class C and D compartments with bulk-loaded baggage typical of that found in actual service. In conjunction with these tests, the FAA developed a method of testing liner materials utilizing a 2 gallons-per-hour kerosene burner. The materials—fiberglass, Kevlar and Nomex—comprise the primary liner materials currently used in domestic jet transport airplanes.

As a result of these full-scale tests, it was found that a fire could rapidly burn through Nomex or Kevlar under representative conditions. In addition to the fire hazards associated with the initial flame penetration, further suppression of the oxygen in compartments would be hindered. This, in turn, could result in a fire of increased intensity. It was therefore concluded that improved standards are warranted for the sidewall and ceiling liner panels of all classes of cargo or baggage compartments that depend on liners for fire control. Considering probable flame path, the FAA determined that it is not necessary for the materials used for bottom liner panels to meet these improved standards.

The full-scale tests conducted at the FAA Technical Center also showed that a limitation on the volume of Class D compartments is warranted. These tests indicated that the intensity of a fire in a Class D compartment is dependent on compartment volume as well as the sum of compartment volume and the volume of leakage from the compartment in a given period of time. In this regard, it was found that the intensity of a fire in a larger Class D compartment is much greater due to the total amount of oxygen available in compartments larger than approximately 1,000 cubic feet and is, therefore, beyond the capability of the liner to resist flame penetration. Accordingly, the volume of a Class D compartment would be limited to a maximum of 1,000 cubic feet.

The comment period for this notice originally closed on October 8, 1984. It was reopened, as announced in Notice 84-11A (49 FR 40041; October 12, 1984), because of requests received from persons desiring more time in which to study the proposal and prepare their comments. The comment period was further reopened, as announced in Notice 84-11B (50 FR 13226; April 3, 1985), in light of requests received after further tests were conducted by the FAA at its Technical Center. One commenter requested that the FAA reopen the comment period for an additional period; however, the reason given was not considered sufficient to warrant such action. Although the comment period closed on June 3, 1985, late comments have been considered in accordance with 14 CFR 11.47(a). All interested parties have thus been given ample opportunity to participate in the making of this final rule, and due consideration has been given to all matters presented. Except for the changes discussed below, this final rule and the reasons for its adoption are the same as those stated in Notice 84-11.

Discussion of Comments

The numerous comments receive in response to Notice 84-11 represent the views of airplane and equipment manufacturers, airplane operators, material producers and testing laboratories, airplane crew organizations, U.S. and foreign government organizations, and consumer groups. The vast majority of commenters endorse the intent of the proposals of Notice 84-11, although some suggest modifications to the proposed requirements. The following FAA responses to comments are discussed according to the subject matter of the comment.

One commenter believes the justification for the proposed standards to be deficient in analysis. In this regard, the commenter states that the basis for the proposed rule was a catastrophic fire which occurred on a Lockheed L-1011 airplane and that the standards are a reaction to a preconceived notion that Kevlar and Nomex are less desirable than fiberglass since the proposed test methods do not relate to an actual fire scenario. The commenter contends that there is nothing in the analysis to indicate that the results of the L-1011 accident would have been prevented if fiberglass liners had been installed.

The proposed standards are not based on a scenario derived from an analysis of the L-1011 accident, but rather are based on full-scale testing that was conducted with simulated Class C and D compartments using bulk-loaded baggage. The full-scale tests showed that fiberglas as typically used in cargo or baggage compartments, is superior to Kevlar or Nomex from a flame penetration standpoint. The more significant result of these tests is, however, the fact that existing standards for liner materials do not provide adequate protection from a typical cargo or baggage compartment fire. In this regard, it must be noted that liners constructed of Kevlar or Nomex, as well as those of fiberglass, meet the current standards. Because it would be impractical to conduct a full-scale test to qualify each type of material, the FAA developed test methods that would provide results comparable to those of a full-scale test from a materials qualification standpoint. As a result of this correlation, the proposed test methods do, in fact, relate to an actual

fire scenario. As explained in Notice 84–11, the L–1011 accident cited by the commenter was *assumed* to have resulted from a fire in the cargo or baggage compartment for regulatory analysis purposes. The analysis notes that the specific cause of the fire is the subject of considerable dispute.

Several commenters present views supporting or opposing application of the proposed standards to airplanes already in service. Because such action would be beyond the scope of the notice, the comments are not considered relevant to this rulemaking. The FAA is, however, considering additional rulemaking that will address this issue.

One commenter contends that although reinforced with fiberglass and using state-of-the-art resins, almost all ceiling liners and some sidewall liners that are used in the current jet transport fleet do not meet one or more of the proposed requirements in the notice. The commenter also contends that materials which simultaneously satisfy the functional requirements for ceiling and sidewall liners, as well as the proposed fire safety standards, are not available. These contentions are not supported by the testing conducted. As noted in FAA Technical Note DOT/FAA/CT–TN85/11, An Evaluation of the Burn-Through Resistance of Cargo Lining Materials, dated April 1985, there are a number of suitable liner materials that meet the standards and are available. A copy of this technical note has been placed in the Rules Docket.

One commenter contends that additional FAA and industry developmental work is clearly required prior to issuance of regulatory material to establish test apparatus, procedures, and evaluation criteria that will accomplish the intent of the proposed rule. The FAA does not agree. Testing has shown that the proposed standards do realistically discriminate between acceptable and unacceptable liners, and any further development work would unnecessarily delay introduction of improved liners in service.

One commenter supports the notice, but is concerned that the research and development testing did not account for the possible presence of hazardous materials in the cargo compartment. While any consideration of a regulation addressing the effects of hazardous materials would be beyond the scope of the notice, it is noted that standards concerning the carriage of hazardous materials are contained in Chapter I of Title 49, Code of Federal Regulations (CFR).

Although two commenters consider the proposed standards to be too stringent, these standards have been shown to be necessary by full-scale testing and achievable with currently available materials. One of these two commenters further states that smoke and toxicity should also be addressed. Such standards would be beyond the scope of the notice and could not be considered at this time. It should be noted, however, that existing § 25.831 provides standards for crew and passenger compartment ventilation and evacuation of smoke. While there is evidence of the need for improved standards with respect to flame penetration, the FAA does not have evidence that the existing standards of § 25.831 do not provide adequate protection from smoke and toxicity. Standards for toxicity would be especially difficult to establish because there has not been sufficient research to adequately define acceptable levels of human tolerance to typical cargo or baggage compartment fire toxicants.

One commenter proposes the use of a "total flood" of extinguishing agent in lieu of improved standards for the liners. Similarly, another commenter believes the standards should give credit for an active fire extinguishing system by allowing the use of liners with less resistance to flame penetration than that proposed in the notice. These concepts are considered inadequate because liners with less ability to resist flame penetration are likely to fail very quickly before the extinguishing agent is effective, allowing the extinguishing agent to escape and rendering the extinguishing system inoperative.

One commenter compares the proposed standards for cargo or baggage compartment liners with the guidance in Advisory Circular AC 20–107A, Composite Aircraft Structure, for composites that are required to be fire-resistant. The commenter believes that the proposed standards are too stringent when compared to the standards for composite materials, considering that a fire in a cargo or baggage compartment would be less severe (according to the commenter) due to the limited amount of oxygen available. The comparison of the proposed standards with the guidance for composite materials is not appropriate because the purposes differ. The proposed standards for cargo or baggage compartments are intended to safely contain a fire. The guidance for composite materials is, on the other hand, to ensure that the structural integrity of the materials will be maintained during exposure to a fire.

Two commenters believe that the rulemaking for improving fire safety in air carrier airplanes is proceeding faster than the fire safety technology. The FAA has determined that the technology exists for compliance with these new standards and that consequently the manufacturers can design liners for cargo and baggage compartments that meet the new standards.

Two commenters support the proposed standards for Class C and D compartments, but not for Class B or E compartments. A Class B compartment is typically the large cargo portion of the cabin in a combination passenger and cargo carrying airplane (frequently referred to as a "combi" airplane). A Class E compartment is the main cabin of an airplane used only for the carriage of cargo. Both Class B and E compartments may be dedicated solely to the carriage of cargo or may be convertible passenger or cargo compartments. (Airplanes with convertible compartments are frequently referred to as "quick change (QC)" airplanes.) The seats of QC airplanes are generally installed on pallets so that they can be removed rapidly for the carriage of cargo. The sidewalls, bulkheads and ceillings of the passenger interior then serve as the liners of the cargo compartments. Like Class C compartments, Class B and E compartments are required to have smoke or fire detection systems to give warning at the pilot or flight engineer station. For fire extinguishment, Class B compartments are required to have sufficient accessibility to enable a crewmember to effectively reach any part of the compartment with the contents of a hand fire-extinguisher. Class E compartments must have means to shut off the ventilating airflow and to exclude hazardous quantities of smoke, flames or noxious gases from the flightcrew compartment. Class B and E compartments, therefore, do not depend on the integrity of the liner to retain the agent from a built-in extinguishing system, as in a Class C compartment, or to limit the supply of oxygen, as in a Class D compartment.

Based on the lack of adverse service experience with Class B and E compartments to date, and the lack of full-scale test data that are directly applicable, the FAA concurs that the liners of these compartments need not meet the new standards. This does not preclude future rulemaking to require such liners to meet these standards if warranted by further service experience or testing.

Several commenters have presented opposing views concerning Class D compartments. Some contend that the proposed 1,000 cubic feet limitation of the volume of a Class D compartment is too restrictive. One commenter suggests that the rate of ventilation and leakage

for Class D compartments should be as low as practicable and should not exceed the following formula, which (according to the commenter) has been an acceptable means of compliance with the objective requirements of current § 25.857(d):

$W = 2{,}000 - V$

Where W = ventilation and leakage airflow in cu. ft. hr.

V = compartment volume in cu. ft.

One commenter further suggests that the burner heat flux density, flame temperature, and time of application, should be redefined to reflect conditions to be established by the FAA Technical Center by further testing for a Class D compartment that is greater than 1,000 cubic feet, but meets the above formula. As discussed in the notice, the tests conducted at the FAA Technical Center indicated that the intensity of a fire in a Class D compartment is dependent on compartment volume as well as the sum of compartment volume and the volume of leakage in a given period of time. In this regard, it was found that the intensity of a fire in a larger Class D compartment is much greater due to the total amount of oxygen available in compartments larger than approximately 1,000 cubic feet, and beyond the capability of the liner to resist flame penetration. While the leakage rate is an important consideration, a low rate does not mitigate the need to limit the total volume of a Class D compartment to 1,000 cubic feet. The more stringent standards that would be needed to safely contain a fire in a compartment greater than 1,000 cubic feet would be beyond the scope of the notice.

Other commenters, in contrast, believe that Class D compartments should be eliminated altogether. One commenter is concerned that a fire may originate in a Class D compartment that is nearly empty, grow out of control due to the greater amount of oxygen available, and spread to an adjacent compartment that does have combustible cargo or baggage. This scenario is considered unrealistic because the compartment in which the fire originates is unlikely to contain enough combustible materials to sustain an intense fire for an extended period if it is nearly empty. In this regard, the scenario presupposes, first, that the combination of compartment volume and leakage airflow and liner integrity are inadequate to safely suppress and contain the fire in the original compartment and, second, that the liner of the adjacent compartment is incapable of preventing burn-through in reverse. In light of the testing conducted, the proposed standards would make both suppositions unlikely. The same commenter is concerned that in-service damage to liners may allow additional leakage airflow and compromise the capability of the liner to suppress a fire. The FAA notes the commenter's concern and concurs that the use of improved materials will increase the capability of the liners to suppress fires only if the integrity of the liners is maintained in service. In this regard, the FAA is presently emphasizing to operators the importance of properly maintaining the liners in all cargo or baggage compartments that are required to have liners and has stepped up surveillance of airline maintenance of cargo compartment liners. The commenter is also concerned about the failure of a ventilation control valve in a Class D compartment which, the commenter alleges, was the cause of the previously discussed Lockheed L-1011 accident. As also noted previously, the cause of the fire involved in that accident is a matter of considerable dispute, and has not been attributed to such a failure.

One commenter supports the proposed limitation of the volume of a Class D compartment to 1,000 cubic feet but believes a specific limitation on leakage airflow should also be imposed. The FAA concurs that the leakage airflow rate is an important factor. Such leakage must be considered for compliance with the objective requirements of current § 25.857(d)(1). As these objective requirements would remain applicable, it is not considered necessary to establish a specific limitation on leakage airflow.

Two commenters recommend that the FAA require fire detection systems for Class D cargo compartments so that the flightcrews would be alerted to the existence of a fire. Another commenter recommends that all cargo compartments, except Class A and B, should be classified as Class C. While these recommendations are beyond the scope of the notice, neither is considered to be warranted. As discussed above, the full-scale and other fire tests have shown that Class D compartments provide an acceptable level of safety if liners meeting the new standards are used and the volume does not exceed 1,000 cubic feet. As discussed below, the present standards are considered to provide an acceptable level of safety for Class B and E compartments.

One commenter notes that standards for flammability of seat cushions have been adopted (Amendment 25-59; 49 FR 43188; October 26, 1984) since the time Notice 84-11 was issued and believes that many of the elements of the testing required for seats are also appropriate for liner testing.

Although there are necessary differences due to the nature of tests, the FAA concurs that the test methods and procedures should be the same wherever possible. The adopted test procedures have been changed accordingly.

One commenter recommends that the burner heat flux density, flame temperature, and time of application should be redefined to reflect the conditions to be established for a Class C compartment with a properly operating fire detection and extinguishing system. Based on the full-scale tests conducted, the FAA considers that the proposed criteria do simulate the exposure conditions (including burner heat flux density, temperature, and duration) of a realistic cargo fire in a Class C compartment equipped with detectors that provide indication of a fire within one minute, as required by existing § 25.858. The proposed standards are, therefore, considered appropriate in this regard and have been adopted in this final rule.

Several commenters suggest test specimen sizes other than the proposed 16 x 25 inches. One commenter recommends the use of 16 x 24 inch specimens in order to reduce waste when specimens are cut from a standard 4 x 8 foot sheet. The FAA concurs with this recommendation and the requirement has been changed accordingly.

As proposed, ceiling and sidewall liners would have to meet the improved standards while floor panels would only have to meet the current standards. Two commenters believe that flooring should also meet the higher standards; however, their position is not supported by the results of the full-scale testing. Such tests have shown that fires tend to burn upward, and there is little or no involvement of flooring. The improved standards are, therefore, not warranted for flooring.

In lieu of the proposed test panel size and positioning, one commenter suggests the use of a 610 mm x 610 mm panel centered horizontally 203 mm above the flame. Alternate panel sizes and positioning could be used under the equivalent safety provisions of § 21.21(b)(1) of this chapter provided the tests yield the same results. The suggested change is, therefore, unnecessary. The same commenter believes that negative test results should not preclude the use of aluminum as liner material. The FAA does not concur because, for reasons stated earlier, the FAA considers the proposed standards

to be the minimum required for safety. Testing conducted subsequent to Notice 84–11 has shown that aluminum sheet, in thicknesses typically used for liners, does not meet the proposed standards.

Several commenters express related concerns that the proposed rule would require only the basic panel material to be tested and that design features, such as joints, structural attachments, lamp units, lashing points and pressure relief panels, would be omitted. In this regard, one commenter contends that the proposed test seems to confuse two objectives: The need to demonstrate the ability of a material to resist flame penetration and the need to demonstrate fire containability of a "simulation" of the ceiling and sidewall. The commenter states that view A–A of Figure 1 of the notice shows the edges of the panel held in a manner that is not representative and is not therefore a "simulation" that will test a design detail.

In response to the commenter's concerns, the term "liner," as used in § 25.855(a–1), includes any design features that would affect the capability of the liner to safely contain a fire. Such features would, therefore, have to be tested along with the basic panel material unless they have been previously found satisfactory. For example, joints that are constructed with fireproof fasteners and are not subject to gaps caused by distortion need not be tested. On the other hand, the test specimens would include joints constructed with nonfireproof fasteners or joints subject to distortion. Similarly, test specimens woud include lamp lenses, if failure of the lenses would allow flames to pass; however, lamps need not be included in the test specimen if the lamp incorporates a fireproof body that would prevent passage of flames. The test acceptance criteria have been clarified in this regard. One commenter also contends that the apparatus assumes that the sidewall will be vertical, which is not always the case. Tests have shown that results obtained with vertical panels are also representative of sidewalls that are inclined; therefore, the FAA considers the test apparatus to be appropriate in this regard.

One commenter suggests that it is unnecessary to test ceiling and sidewall panels simultaneously. The FAA concurs that it is not necessary to test ceiling and sidewall panels simultaneously; and it may, in some instances, be advantageous to test the panels separately. For example, material tested as a ceiling panel with a baffle installed to simulate the missing side panel would be qualified for use as ceiling material with any otherwise qualified sidewall material. Furthermore, the material would also be qualified for use as sidewall material due to the test heat transfer characteristics. On the other hand, a material tested as a ceiling panel simultaneously with a sidewall panel would be qualified for use only with sidewalls of the material used in the sidewall test panel.

One commenter believes that the use of alternate burners should be allowed. The commenter notes that kerosene burners with improved adjustment and controlling devices are available and that gas-type burners could also be used. The proposed standards note that two particular burner models have been used in the past, but the standards do not specifically require use of those particular models. Any burner that meets the proposed standards could, therefore, be used. Other burners, such as gas-type burners, could be used under the equivalent level of safety provisions of § 21.21(b)(1) of this Chapter provided they are shown to give the same test results.

Two commenters believe that the test fixture should be revised to allow a baffle to be placed around the liner. The baffle would simulate a ceiling and thereby prevent the piloted ignition of combustion gases released by the test specimen. Such use of a baffle is not considered appropriate because combustible gases released from liner materials could reignite outside the compartment and contribute to the hazard in an actual cargo or baggage compartment fire. Furthermore, there are currently available materials constructed with resins that do not release such combustible gases.

The proposed burner test fuel is defined as "kerosene." One commenter believes that this term is too board and notes that its use has led to problems in testing both cargo or baggage compartment liner materials and seat cushions. The FAA concurs and notes that the test fuel for the recently adopted seat cushion flammability standards (Amendment 25–59; 49 FR 43188; October 26, 1984) is defined as "#2 kerosene or equivalent." For consistency, the fuel for testing cargo or baggage compartment liners will also be defined as "#2 kerosene or equivalent."

The proposed burner cone is 12 inches wide at the exit. As equipment already in use incorporate burner cones that are 11 inches wide, one commenter recommends specifying that this dimension should be specified as 11.5 ± 0.5 inches in order to accommodate both sizes. It appears that such a variation in burner cone area would cause variations in burner heat output and inconsistencies in test results. Use of the 11-inch wide cone specified for the recently adopted seat flammability standards (Amendment 25–59; 49 FR 43188; October 26, 1984) would eliminate the need for two separate cones while still assuring consistency of test results. The test apparatus specified for these tests has been changed accordingly.

Two commenters recommend conditioning the test specimens to 50 ± 5 percent relative humidity prior to testing. The FAA concurs. In order to assure consistent test results, the test specimen criteria will include such conditioning.

One commenter notes that there are brief excursions below the minimum temperature on any one thermocouple due to the transient nature of a fire. The commenter suggests that these excursions can be as great as 100°F. and as frequent as several seconds apart. In order to accommodate a temperature measuring device that takes periodic instantaneous readings rather than a continuous reading, the commenter recommends using the average of temperature and heat flux over a representative exposure time, e.g. one minute, in lieu of the minimum values. In general, it appears that such averaging would not ensure the intended level of safety. A temperature measuring device of this nature could, however, be used under the "other equivalent methods" provisions of § 25.855(a–1)(1) provided it is shown to provide test results equivalent to those that would be obtained with continuous reading devices.

One commenter suggests the proposed acceptance criteria that self-extinguishing time must be less than 15 seconds and that glow time must be less than 10 seconds are unnecessary. The FAA concurs that materials that meet the proposed burn-through criteria will inherently have satisfactory self-extinguishing and glow characteristics, and these criteria have been deleted.

Two commenters suggest increasing the measured limit 4 inches above a tested ceiling liner to more than 400 °F. (One commenter specifically recommends 500 °F.) Although the temperature measured at this point varies depending on the weave and resin of the material tested, tests have shown that many materials are capable of meeting the proposed limit. The proposed limit of 400 °F. is, therefore, considered appropriate.

One commenter believes that the standards should be more precise as to

what kind of heat energy shall be measured, i.e., heat radiation only or the total heat flux consisting of radiation and convection. The notice specifies total flux. To avoid possible confusion, a Foil Type Gardon Gage total heat flux calorimeter is specified.

One commenter recommends establishing the following tolerance for the thermocouple calibration temperature: a 1700 °F. minimum temperature averaged over the seven thermocouples with a maximum lower deviation for any one thermocouple of 100 °F. The FAA concurs that the standards must allow a tolerance in this regard as a matter of practicality. The rule is changed accordingly.

One commenter suggests that the test time be measured to flame penetration *or* test completion. The FAA concurs that this change is needed to cover tests in which the test is successfully completed without any penetration. The rule is changed accordingly.

One commenter requests an additional requirement to record the flame time after removal of the flame source and the glow time. As noted earlier, these criteria are unnecessary for materials that meet the proposed burn-through criteria. This addition is, therefore, unwarranted.

Since the time Notice 84–11 was issued, existing Appendix F of Part 25 has been reidentified as Appendix F, Part I, and new standards for flammability of seat cushions have been added as Appendix F, Part II by Amendment 25–59; (49 FR 43188; October 26, 1984). The new standards for cargo or baggage compartments are, therefore, added as Appendix F, Part III. Other nonsubstantive conforming editorial changes, including that to § 25.853(b), have also been made. Furthermore, minor nonsubstantive changes have been made to the test procedures.

Regulatory Evaluation

I. Cost Benefit Anaylsis

A. Costs

The costs of the amended regulations included in this final rule will result primarily from the additional fuel consumed by the airplanes subject to the rule as a result of the slight increase in airplanes weight necessary to comply with the new standards. The airplanes that would be affected are those newly designed transport category airplanes for which an application for type certificate is made on or after the effective date of the final rule. The precise number of airplanes which will be affected cannot be accurately predicted because of the uncertainties in the number of future airplanes designs and the number of airplanes of each design that will be produced. The estimated costs of this final rule have, therefore, been based upon average total costs for a typical type certificate issued, rather than overall costs for all future airplanes types which may be certificated under the new standard. (This differs slightly from the methodology used in Notice 84–11, where fuel penalty costs were presented on an hourly basis.) Further, in developing the average total costs per type certificate issued, the FAA has estimated that a newly type certificated airplanes will have a production run of approximately 1,000 airplanes, and that each airplane will have an average life of 60,000 hours, yielding a total of 60 million flight hours for all airplanes produced under a typical type certificate. Because both the costs of this rule, and the benefits of reduced exposure to the risk of a catastrophic cargo compartment fire, will be realized simultaneously during actual operation of the airplanes, the ratio of costs to benefits will remain unchanged regardless of the level of activity in any given year over the 40 to 50 year period during which airplanes produced under a type certificate will remain in active service. Thus, comparison can be made in the form of total costs and benefits for all airplanes produced under one type certificate, rather than in the form of discounted present values, which would necessitate making arbitrary assumptions about the rate of airplane production, activity, and attrition during each year of the 40 to 50 year period.

Of the materials which meet the more stringent flame penetration standards adopted in this final rule, fiberglass is currently considered the most feasible material for use as sidewall or ceiling panels of cargo or baggage compartments. This material is somewhat heavier than Kevlar or Nomex, the other two liner materials currently used in transport category airplanes. According to data compiled by the FAA, Boeing achieved a weight savings of approximately 150 pounds in each Model 767 airplane by using Kevlar instead of fiberglass for the ceiling and sidewall panels. Because the Model 767 falls approximately in the middle of the size range of existing transport category airplanes, the FAA has assumed, for purposes of this analysis, that a typical affected transport category airplane would incur an average weight penalty of approximately 150 pounds as a result of the need to use fiberglass liner materials in lieu of lighter alternatives, such as Kevlar or Nomex. This, of course, is based on the further assumption that no new lightweight materials are developed which would meet the higher flame penetration standard.

Data compiled by the National Aeronautics and Space Administration (NASA) indicate that each additional pound of weight added to a transport category airplane results in an average additional fuel consumption of about 15 gallons per year per airplane, or an average of .006 gallons per hour based upon an average utilization rate of 2,500 hours per year per airplane. At the current jet fuel price of $.85 per gallon, and 1,000 airplanes flying a total of 60,000 lifetime hours each, the total additional fuel cost attributable to the heavier liner material will be approximately $46 million for each future type certificate that is issued. This cost will be incurred over a period of 40 to 50 years, and equates to about $46 thousand per airplane distributed over the lifetime of that airplane. Actual costs can be expected to be less than this estimate because of expected improvements in the fuel efficiency of new technology engines.

Cargo or baggage compartments larger than 1,000 cubic feet in volume may currently be designed as Class D compartments in lieu of Class C compartments with smoke or fire detection and fire extinguishment systems. Under the terms of this amendment, compartments of this size in affected airplanes would have to be designed as Class C compartments. The FAA estimates that an average weight penalty of 150 pounds per affected airplane would result from the installation of smoke or fire detection and extinguishment systems in the Class C compartments that, in the absence of the rule change, would have been designed as Class D compartments. This will result in an additional $46 million total weight penalty per type certificate for all airplanes built under type certificates which are also affected by this provision of the final rule.

Further, the cost of the smoke or fire detection and extinguishment systems must also be considered (this cost factor was erroneously omitted from the evaluation of Notice 84–11). The FAA estimates that system equipment, installation by the airframe manufacturer, and interest will add approximately $10,500 to the cost of each airplane purchased, yielding a total additional cost of $10.5 million per type certificate for the approximately 1,000 airplanes estimated to be built under a future type certificate. Although each individual airplane cost represents a capital expenditure, the total cost will

be spread over the entire production run of an airplane model produced under a type certificate, and further annualized by the purchaser of each airplane produced. Consequently, these detection and extinguishment system costs will be incurred over a period of 20 to 30 years. They have, therefore, been presented in the form of total costs rather than in the form of discounted present values for the same reasons discussed previously with respect to fuel costs.

The total cost of the liner material weight penalty, detection and extinguishment system weight penalty, and detection and extinguishment system equipment is estimated to be $102 million per type certificate for those future designs which will be affected by both the amended Class D volume constraint and the new liner material standard. These total costs will be incurred over a period of 40 to 50 years, and equate to about $102 thousand per airplane distributed over the lifetime of that airplane. It must also be noted that relatively few existing transport airplanes have Class D compartments which are larger than 1,000 cubic feet in volume. There are currently only three airplane designs in domestic use with such compartments (the McDonnell Douglas Models DC–8 and DC–10, and the Lockheed Model L–1011). Therefore, assuming no major change in the size distribution of transport airplanes, a relatively small proportion of airplanes type certificated in the future is expected to be affected by the reduction in the maximum allowable volume of a Class D compartment.

Some commenters stated that, in its analysis, the FAA neglected to consider costs related to design features such as panel joints, lamp assemblies, pressure relief panels, structural attachments, etc. These costs, if any, are considered negligible. This final rule applies only to new airplane designs; therefore, there are no redesign costs involved. Furthermore, most of the components and design techniques which are currently in use will meet the new standards. For the few instances in which current components or techniques cannot be used, the designer can choose to use other equivalent components or techniques that will meet the new standards and are currently available.

B. Benefits

The potential benefits of these rule changes are the avoided losses of life and property which would have resulted from those airplane fires that may be prevented by the provisions of the final rule. While a relatively minor benefit will result from the use of fiberglass, which is slightly less expensive to purchase than Nomex or Kevlar, this cost saving is overshadowed by the saving of the total cost of a new airplane or the benefits of accidents prevented over the lifetime of an airplane design. Quantifying these benefits is somewhat difficult because most transport category airplanes currently in service have liners constructed of fiberglass materials which already meet the new standards, and because relatively few have Class D compartments which are larger than 1,000 cubic feet in volume.

Because of the limited number of airplane models currently in service which do not meet the new standards, a Poisson distribution has been used to estimate the probability of preventing random cargo compartment fire accidents during the total service life of a newly designed transport category airplane which is type certificated in accordance with the new standards. (This probability approach is somewhat different than the method used in Notice 84–11, in which a maximum possible accident rate was estimated.) The Poisson distribution provides a realistic model for predicting many random phenomena and frequently is used in safety analysis to estimate future accident risk. The Poisson distribution of potential catastrophic cargo compartment accidents provides a base line from which the potential benefits of the rule change can be measured. Because it is unlikely that the new liner standards or the Class D volume constraint can effectively prevent a catastrophic accident from developing in every possible fire scenario, a sensitivity analysis has been completed to compare the probable benefits which would result if the new standards were effective in 100 percent, 70 percent and 50 percent of the fire scenarios.

In order to develop the Poisson distribution for this analysis, it is necessary to determine the historical average rate of catastrophic cargo compartment fires. Of the three major transport category airplane models currently in service with liner materials that do not meet the new flame penetration standards, only one has been in service for an extended period of time. This is the Lockheed L–1011, which uses Nomex as the liner material in its cargo or baggage compartments. (The other two airplanes, Boeing Models 767 and 757, use Kevlar as the liner material, and each has been in service for only about three years.) Since the Model L–1011 entered service in 1972, it has experienced one catastrophic fire that was possibly related to the cargo compartment. The specific origin or cause of this fire is the subject of considerable dispute; however, for the limited purposes of this document, it will be assumed that the fire originated in the cargo compartment. Based on these assumptions, the limited service experience with the Model L–1011 suggests a mean rate of one catastrophic cargo compartment fire accident in the total service life of all airplanes built under a type certificate which does not require compliance with the new standards. This mean rate of one may be used to develop the Poisson distribution of the probability of accidents which could be experienced by a future design which does not comply with the new liner material standards. The FAA believes that this is a conservative estimate of the mean accident rate because the current accumulated flight time of all Model L–1011 airplanes is far less than the 60 million hours of total flight time estimated in this analysis to be accumulated by all airplanes produced under a typical future type certificate.

Further, the same mean accident rate of one has been used to estimate benefits for those future designs which will be affected by the Class D volume constraint as well as the new liner material standard. Although it stands to reason that a greater safety benefit will be realized for those airplanes for which both fire protection deficiencies (Class D volume and liner material) is corrected, there have been no actual cargo compartment fire accidents that have been attributed to the size of the Class D compartment. Nevertheless, the full-scale tests conducted at the FAA Technical Center clearly indicated that the intensity of a fire in larger Class D compartments can become so great that the capability of the liner to resist flame penetration is exceeded. In the judgment of the FAA, a mean rate of one catastrophic cargo compartment accident is a reasonable compromise between the service history of existing noncompliant airplanes and the results of the laboratory tests. Therefore, this rate has been used to develop an order of mangitude estimate of the potential benefits which may be realized by those future airplane models affected by both of the new standards.

Applying the effectiveness coefficients of 100 percent, 70 percent, and 50 percent to the mean accident rate of one provides probability distributions, based upon each respective assumption about the effectiveness of the new standards, of the number of accidents which might be prevented for each future airplane design receiving a type certificate in compliance with the new standards.

The FAA estimates that the benefits which will be realized from avoiding a typical cargo compartment fire accident in the future will be the prevention of 110 passenger and crew fatalities (derived from FAA traffic data) and the loss of the airplane. Mid-size transport category airplanes which have recently received new type certificates and new designs currently under development are priced between $30 million and $60 million. The FAA, therefore, estimates that $20 million is a reasonable price for a typical used transport category airplane of the future and has used this value as the quantifiable benefit of avoiding the loss of an airplane for each accident prevented.

Based on the Poisson distribution and the alternative effectiveness assumptions discussed above, there is a 63 percent probability that one or more catastrophic cargo compartment fire accidents will be prevented, if the new standards, are 100 percent effective, for each future airplane design issued a type certificate under the new standards. If the new standards are at least 70 percent effective, then the probability that one or more catastrophic accidents will be prevented for each type certificate is about 50 percent; and if the new standards are 50 percent effective, then there is a 40 percent probability that one or more accidents will be prevented for each type certificate. These potential benefit estimates must be compared to the 63 percent probability that, in the absence of these new standards, one or more catastrophic accidents will occur for each new type certificate that is issued which does not meet these standards.

C. Comparison of Costs and Benefits

The FAA has estimated that the total cost per type certificate for the new liner standard, distributed over a 40 to 50 year period, will be about $46 million. The FAA expects that the majority of future airplane designs receiving new type certificates will be affected by the liner standard only. If one or more catastrophic accidents are prevented, then the loss of at least one airplane valued at $20 million will be prevented, at least 110 fatalities will be prevented, and the cost per fatality avoided will not be greater than $235 thousand. For those relatively few new aircraft designs which may be required to comply with both the amended liner material and the Class D compartment size standards, then the total costs increase to appoximately $102 million per type certificate over a 50 year period. If one or more accidents are prevented, the same benefits as those expected for airplanes subject to only the liner standard will be realized, except that the maximum cost per fatality avoided will increase to approximately $748 thousand.

Based upon a conservative estimate of the historic accident rate, and a sensitivity analysis of the potential effectiveness of the new standards, there is about a 40 to 60 percent probability that one or more catastrophic cargo compartment fire accidents will be prevented for each new type certificate that is issued, and that very reasonable cost-benefit relationships will be achieved. This compares to about a 60 percent probability that one or more catastrophic fire accidents will occur for each noncompliant type certificate that is issued in the absence of these new standards.

II. Regulatory Flexibility Act Determination

A final regulatory flexibility determination was conducted in compliance with the Regulatory Flexibility Act. The conclusion in the initial regulatory evaluation, that the rule will have no direct impact on small entities, is not altered by the present evaluation.

III. International Trade Impact Analysis

The amendment will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. In the U.S., foreign manufacturers will have to meet U.S. requirements, and thus they will gain no competitive advantage. In foreign countries, foreign manufacturers could have some minor cost advantage if the foreign country does not require the improved design standards, but because the cost will be negligible compared to the new airplane cost, there will be essentially no impact.

Conclusion

For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291. The FAA has determined that this action is significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, it has been determined under the criteria of the Regulatory Flexibility Act that this rule does not have a significant economic effect on a substantial number of small entities, since none would be affected. A regulatory evaluation, including a Regulatory Flexibility Determination and Trade Impact Assessment, has been prepared for this regulation and has been placed in the Rules Docket. A copy of this evaluation may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, Part 25 of the Federal Aviation Regulations (FAR), 14 CFR Part 25 is amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. By amending § 25.853 by revising paragraph (b) to read as follows:

§ 25.853 Compartment interiors.

* * * * *

(b) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and nondecorative coated fabrics, leather, trays and galley furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting, joint and edge covering, liners of Class B and E cargo or baggage compartments, floor panels of Class C or D cargo and baggage compartments, insulation blankets, cargo covers, and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing), that are constructed of materials not covered in paragraph (b–2) of this section, must be self-extinguishing when tested vertically in accordance with the applicable portions of Part I of Appendix F of this Part, or other approved equivalent methods. The average burn length may not exceed 8 inches, and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

* * * * *

3. By amending § 25.855 by revising paragraph (a–1), to read as follows:

§ 25.855 Cargo and baggage compartments.

* * * * *

(a-1) Class B through Class E cargo or baggage compartments, as defined in § 25.857, must have a liner and the liner must be separate from (but may be

attached to) the airplane structure, and must be tested as follows:

(1) Ceiling and sidewall liner panels of Class C and D compartments must meet the test requirements of Part III of Appendix F of this Part or other approved equivalent methods.

(2) Floor panels of all compartments and ceiling and sidewall liner panels of Class B and E compartments must be constructed of materials that meet at least the requirements set forth in § 25.853(b). Also, these liner panels must be tested at a 45 degree angle in accordance with the applicable portions of Part I of Appendix F of this Part or other approved equivalent methods. The flame may not penetrate (pass through) the material during application of the flame or subsequent to its removal. The average flame time after removal of the flame source may not exceed 15 seconds, and the average glow may not exceed 10 seconds.

* * * * *

4. By amending § 25.857 by adding a new paragraph (d)(6) to read as follows:

§ 25.857 Cargo compartment classification.

* * * * *

(d) * * *

(6) The compartment volume does not exceed 1,000 cubic feet.

* * * * *

5. By amending Appendix F by adding a new Part III to read as follows:

Appendix F to Part 25

* * * * *

Part III—Test Method to Determine Flame Penetration Resistance of Cargo Compartment Liners.

(a) *Criteria for Acceptance.*

(1) At least three specimens of cargo compartment sidewall or ceiling liner panels must be tested.

(2) Each specimen tested must simulate the cargo compartment sidewall or ceiling liner panel, including any design features, such as joints, lamp assemblies, etc., the failure of which would affect the capability of the liner to safey contain a fire.

(3) There must be no flame penetration of any specimen within 5 minutes after application of the flame source, and the peak temperature measured at 4 inches above the upper surface of the horizontal test sample must not exceed 400 °F.

(b) *Summary of Method.* This method provides a laboratory test procedure for measuring the capability of cargo compartment lining materials to resist flame penetration with a 2 gallon per hour (GPH) #2 Grade kerosene or equivalent burner fire source. Ceiling and sidewall liner panels may be tested individually provided a baffle is used to simulate the missing panel. Any specimen that passes the test as a ceiling liner panel may be used as a sidewall liner panel.

(c) *Test Specimens.*

(1) The specimen to be tested must measure 16±⅛ inches (406±3 mm) by 24+⅛ inches (610±3 mm).

(2) The specimens must be conditioned at 70 °F.±5 °F. (21°C.±2 °C.) and 55%±5% humidity for at least 24 hours before testing.

(d) *Test Apparatus.* The arrangement of the test apparatus, which is shown in Figure 3 of Part II and Figures 1 through 3 of this Part of Appendix F, must include the components described in this section. Minor details of the apparatus may vary, depending on the model of the burner used.

(1) *Specimen Mounting Stand.* The mounting stand for the test specimens consists of steel angles as shown in Figure 1.

(2) *Test Burner.* The burner to be used in tesing must—

(i) Be a modified gun type.

(ii) Use a suitable nozzle and maintain fuel pressure to yield a 2 GPH fuel flow. For example: an 80 degree nozzle nominally rated at 2.25 GPH and operated at 85 pounds per square inch (PSI) gage to deliver 2.03 GPH.

(iii) Have a 12 inch (305 mm) burner extension installed at the end of the draft tube with an opening 6 inches (152 mm) high and 11 inches (280 mm) wide as shown in Figure 3 of Part II of this Appendix.

(iv) Have a burner fuel pressure regulator that is adjusted to deliver a nominal 2.0 GPH of #2 Grade kerosene or equivalent.

Burner models which have been used successfully in testing are the Lenox Model OB–32, Carlin Model 200 CRD and Park Model DPL. The basic burner is described in FAA Powerplant Engineering Report No. 3A, Standard Fire Test Apparatus and Procedure for Flexible Hose Assemblies, dated March 1978; however, the test settings specified in this appendix differ in some instances from those specified in the report.

(3) *Calorimeter.*

(i) The calorimeter to be used in testing must be a total heat flux Foil Type Gardon Gage of an appropriate range (approximately 0 to 15.0 British thermal unit (BTU) per ft.^{2} sec., 0–17.0 watts/cm^2). The calorimeter must be mounted in a 6 inch by 12 inch (152 by 305 mm) by ¾ inch (19 mm) thick insulating block which is attached to a steel angle bracket for placement in the test stand during burner calibration as shown in Figure 2 of this Part of this Appendix.

(ii) The insulating block must be monitored for deterioration and the mounting shimmed as necessary to ensure that the calorimeter face is parallel to the exit plane of the test burner cone.

(4) *Thermocouples.* The seven thermocouples to be used for testing must be 1/16 inch ceramic sheathed, type K, grounded thermocouples with a nominal 30 American wire gage (AWG) size conductor. The seven thermocouples must be attached to a steel angle bracket to form a thermocouple rake for placement in the test stand during burner calibration as shown in Figure 3 of this Part of this Appendix.

(5) *Apparatus Arrangement.* The test burner must be mounted on a suitable stand to position the exit of the burner cone a distance of 8 inches from the ceiling liner panel and 2 inches from the sidewall liner panel. The burner stand should have the capability of allowing the burner to be swung away from the test specimen during warm-up periods.

(6) *Instrumentation.* A recording potentiometer or other suitable instrument with an appropriate range must be used to measure and record the outputs of the calorimeter and the thermocouples.

(7) *Timing Device.* A stopwatch or other device must be used to measure the time of flame application and the time of flame penetration, if it occurs.

(e) *Preparation of Apparatus.* Before calibration, all equipment must be turned on and allowed to stabilize, and the burner fuel flow must be adjusted as specified in paragraph (d)(2).

(f) *Calibration.* To ensure the proper thermal output of the burner the following test must be made:

(1) Remove the burner extension from the end of the draft tube. Turn on the blower portion of the burner without turning the fuel or igniters on. Measure the air velocity using a hot wire anemometer in the center of the draft tube across the face of the opening. Adjust the damper such that the air velocity is in the range of 1550 to 1800 ft./min. If tabs are being used at the exit of the draft tube, they must be removed prior to this measurement. Reinstall the draft tube extension cone.

(2) Place the calorimeter on the test stand as shown in Figure 2 at a distance of 8 inches (203 mm) from the exit of the burner cone to simulate the position of the horizontal test specimen.

(3) Turn on the burner, allow it to run for 2 minutes for warm-up, and adjust the damper to produce a calorimeter reading of 8.0±0.5 BTU per ft.^{2} sec. (9.1±0.6 Watts/cm^2).

(4) Replace the calorimeter with the thermocouple rake (see Figure 3).

(5) Turn on the burner and ensure that each of the seven thermocouples reads 1700 °F. ±100 °F. (927 °C. ±38 °C.) to ensure steady state conditions have been achieved. If the temperature is out of this range, repeat steps 2 through 5 until proper readings are obtained.

(6) Turn off the burner and remove the thermocouple rake.

(7) Repeat (1) to ensure that the burner is in the correct range.

(g) *Test Procedure.*

(1) Mount a thermocouple of the same type as that used for calibration at a distance of 4 inches (102 mm) above the horizontal (ceiling) test specimen. The thermocouple should be centered over the burner cone.

(2) Mount the test specimen on the test stand shown in Figure 1 in either the horizontal or vertical position. Mount the insulating material in the other position.

(3) Position the burner so that flames will not impinge on the specimen, turn the burner on, and allow it to run for 2 minutes. Rotate the burner to apply the flame to the specimen and simultaneously start the timing device.

(4) Expose the test specimen tto the flame for 5 minutes and then turn off the burner. The test may be terminated earlier if flame penetrations observed.

(5) When testing ceiling liner panels, record the peak temperature measured 4 inches above the sample.

(6) Record the time at which flame penetration occurs if applicable.

(h) *Test Report.* The test report must include the following:

(1) A complete description of the materials tested including type, manufacturer, thickness, and other appropriate data.

(2) Observations of the behavior of the test specimens during flame exposure such as delamination, resin ignition, smoke, ect., including the time of such occurrence.

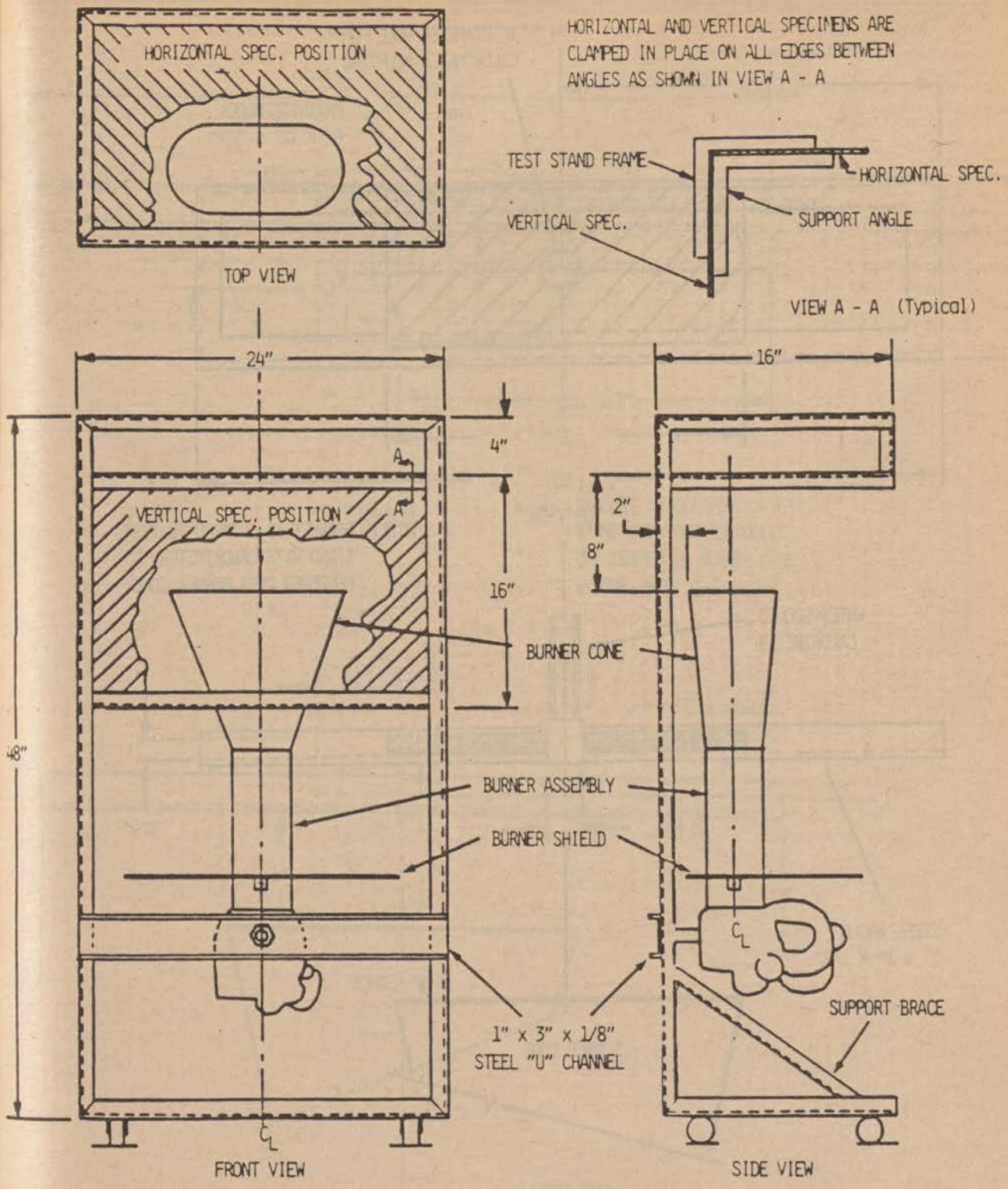
(3) The time at which flame penetration occurs, if applicable, for each of the three specimens tested.

(4) Panel orientation (ceiling or sidewall).

Donald D. Engen,

Administrator.

BILLING CODE 4910-13-M



TEST STAND IS CONSTRUCTED WITH 1" x 1" x 1/8" STEEL ANGLES, ALL JOINTS WELDED
SUPPORT ANGLES ARE 1" x 1" x 1/8" CUT TO FIT

FIGURE 1. TEST APPARATUS FOR HORIZONTAL AND VERTICAL MOUNTING

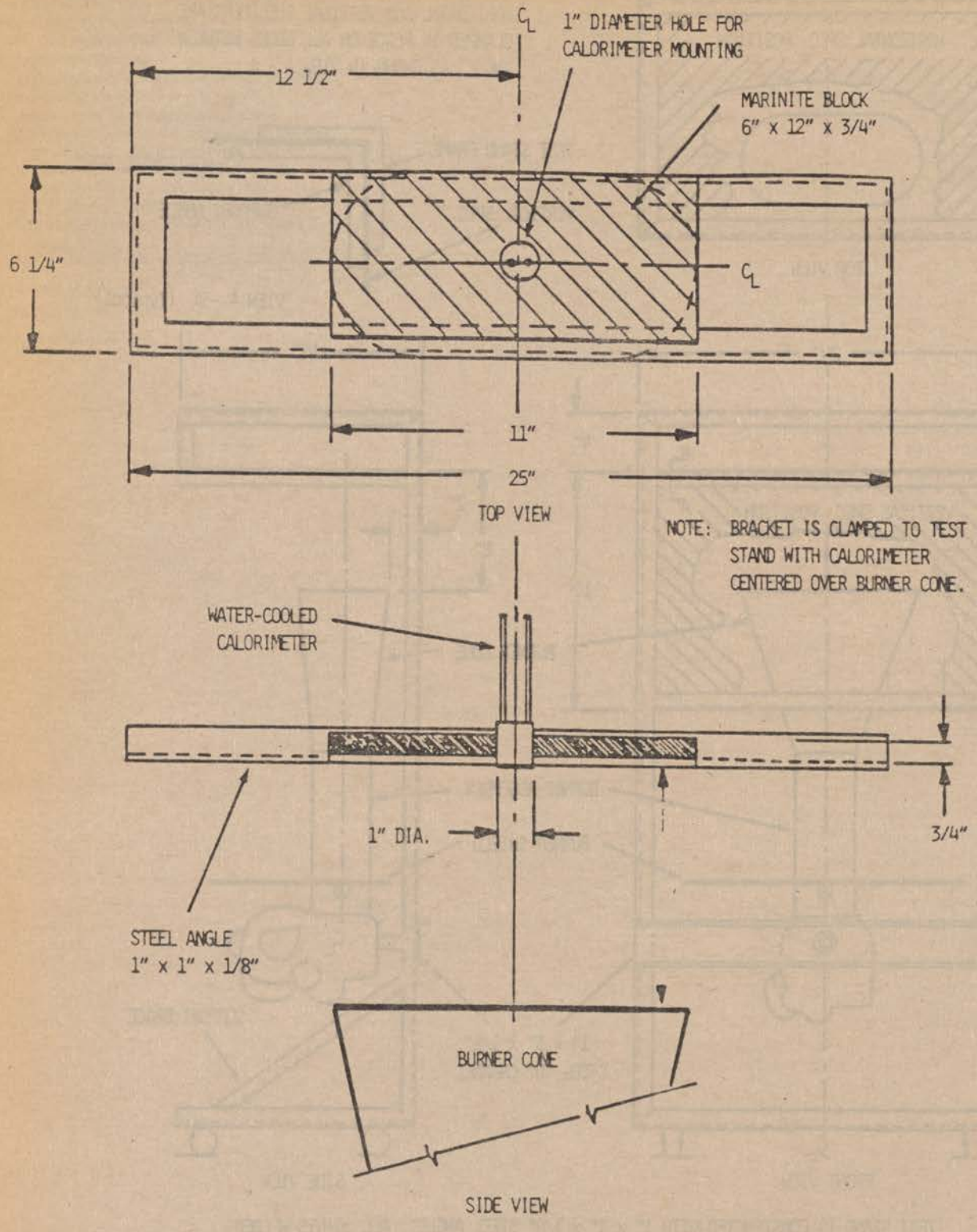
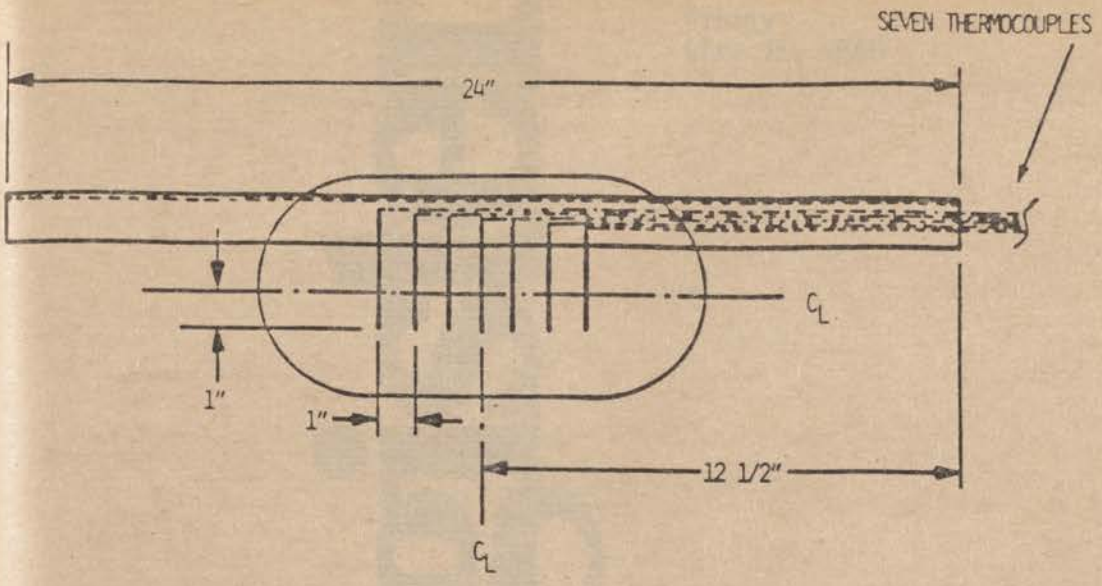
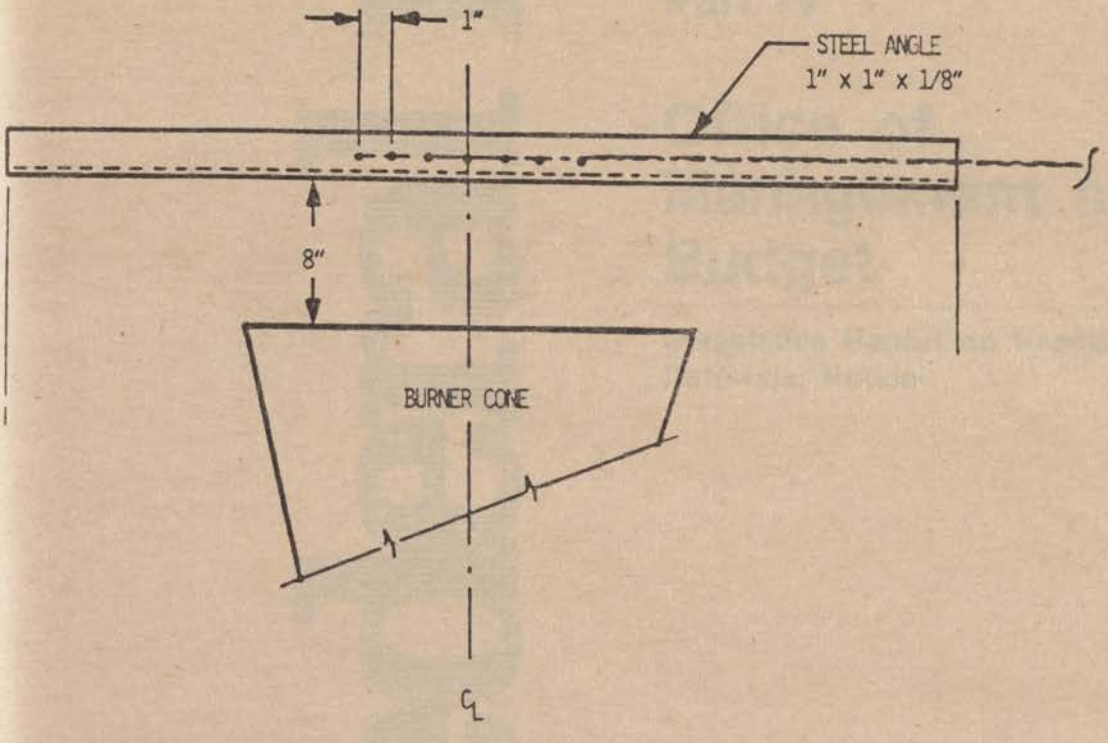


FIGURE 2. CALORIMETER BRACKET



TOP VIEW

NOTE: BRACKET IS CLAMPED TO TEST STAND WITH THERMOCOUPLES OFF CENTER OF BURNER CONE BY ONE INCH.



SIDE VIEW

FIGURE 3. THERMOCOUPLE RAKE BRACKET

[FR Doc. 86-11048 Filed 5-15-86; 8:45 am]
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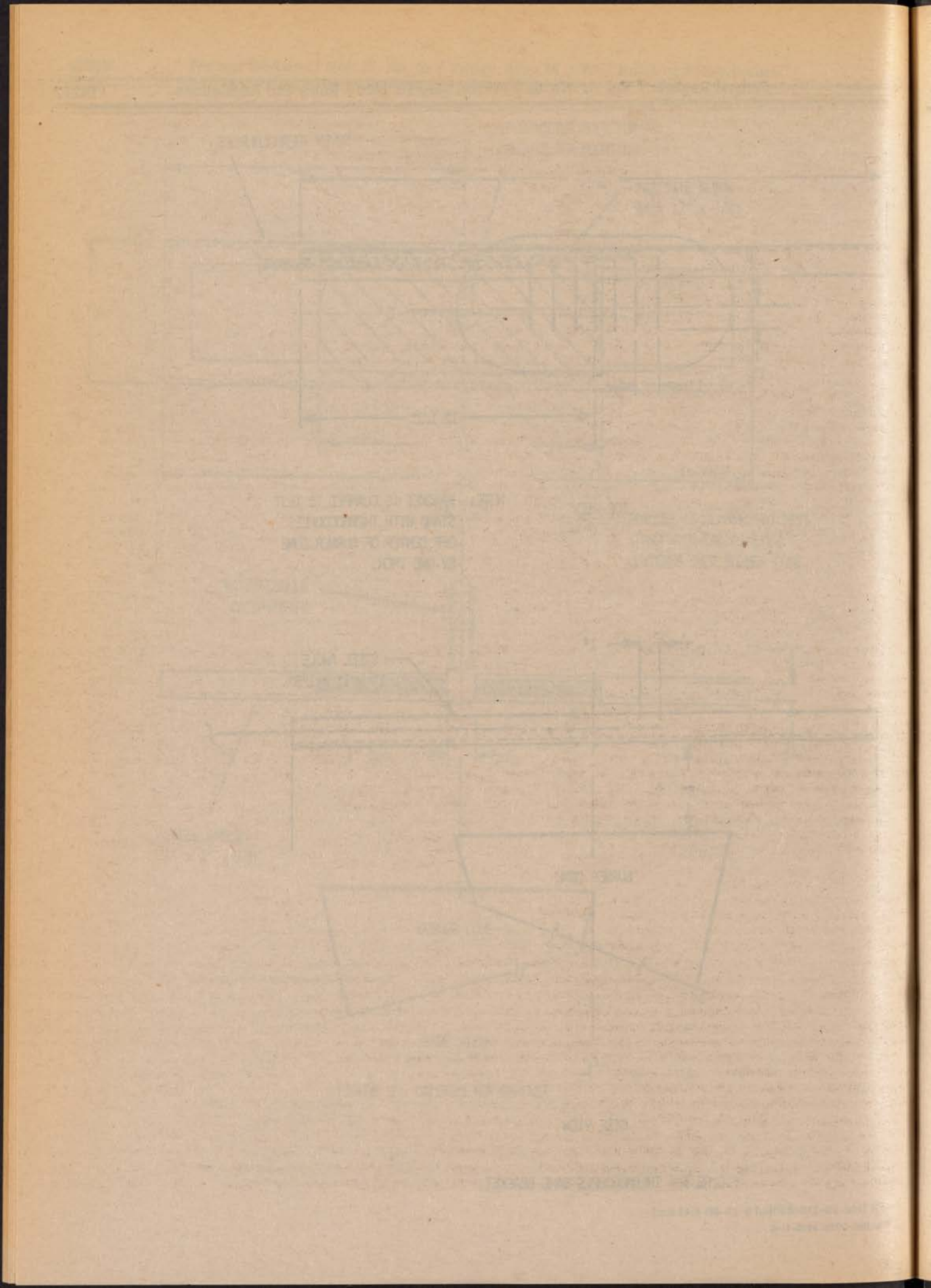

federal register

Friday
May 16, 1986

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1, 1986.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of May 1, 1986, of 83 rescission proposals and 66 deferrals contained in the six special messages of FY 1986. These messages were transmitted to the Congress on October 1 and November 25, 1985, February 5, March 12, March 20, and April 25, 1986.

Rescissions (Table A and Attachment A)

As of May 1, 1986, there were rescission proposals totaling $194.4 million pending before the Congress.

Deferrals (Table B and Attachment B)

As of May 1, 1986, $11,933.1 million in 1986 budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1986.

Information From Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985

Vol. 50, FR p. 49498, Monday, December 2, 1985

Vol. 51, FR p. 5830, Tuesday, February 18, 1986

Vol. 51, FR p. 9154, Monday, March 17, 1986

Vol. 51, FR p. 10526, Wednesday, March 26, 1986

Vol. 51, FR p. 16274, Thursday, May 1, 1986

James C. Miller, III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1986 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$10,140.0
Accepted by the Congress	0
Rejected by the Congress	9,945.7 a/
Pending before the Congress	$194.4

****

TABLE B

STATUS OF 1986 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$24,720.7
Routine Executive releases through May 1, 1986 (OMB/Agency releases of $12,622.8 million and cumulative adjustments of $58.8 million)	-12,564.0
Overturned by the Congress	-223.6
Currently before the Congress	$11,933.1

a/ Rescission proposals transmitted with the FY 1987 Budget were released immediately following expiration of the 45-day clock on rescissions under the Impoundment Control Act. However, the proposals continue to be subject to Congressional action.

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1986

As of May 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
FUNDS APPROPRIATED TO THE PRESIDENT								
Multilateral Assistance								
International organizations and programs.	R86-1			2-5-86				
	R86-1A	39,760		3-20-86		39,760	4-16-86	
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization and Conservation Service								
Rural clean water program	R86-2	6,000		2-5-86		6,000	4-16-86	
Agricultural conservation program	R86-3	140,839		2-5-86		140,839	4-16-86	
Water bank program	R86-4	8,371		2-5-86		8,371	4-16-86	
Dairy indemnity program	R86-5	95		2-5-86		95	4-16-86	
Rural Electrification Administration								
Reimbursement to the Rural electrification and telephone revolving fund for interest subsidies and losses.	R86-6	100,000		2-5-86		100,000	4-16-86	
Purchase of Rural Telephone Bank capital stock	R86-7	28,710		2-5-86		28,710	4-16-86	
Farmers Home Administration								
Rural development loan fund	R86-10	13,674		2-5-86		13,674	4-16-86	
Soil Conservation Service								
Watershed and flood prevention operations	R86-11	60,401		2-5-86		60,401	4-16-86	
Great plains conservation program	R86-12	6,606		2-5-86		6,606	4-16-86	
Food and Nutrition Service								
Food donations program	R86-13	5,183		2-5-86		5,183	4-16-86	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs.	R86-14	101,309		2-5-86		101,309	4-16-86	
International Trade Administration								
Operations and administration	R86-15	19,290		2-5-86		19,290	4-16-86	
National Oceanic and Atmospheric Administration								
Operations, research, and facilities	R86-16	63,323		2-5-86		63,323	4-16-86	
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R86-17	21,820		2-5-86		21,820	4-16-86	
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R86-81		34,400	4-25-86				
Shipbuilding and conversion, Navy	R86-82		40,100	4-25-86				
Other procurement, Air Force	R86-83		40,000	4-25-86				
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R86-18	7,177		2-5-86		7,177	4-16-86	
Special programs	R86-19	37,782		2-5-86		37,782	4-16-86	
Office of Bilingual Education and Minority Languages Affairs								
Immigrant education	R86-20	28,710		2-5-86		28,710	4-16-86	
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R86-21	44,364		2-5-86		44,364	4-16-86	
Rehabilitation services and handicapped research	R86-22	75,439		2-5-86		75,439	4-16-86	
Payments to institutions for the handicapped	R86-23	446		2-5-86		446	4-16-86	
Office of Vocational and Adult Education								
Vocational and adult education	R86-24	210,337		2-5-86		210,337	4-16-86	
Office of Postsecondary Education								
Student financial assistance	R86-25	456,347		2-5-86		456,347	4-16-86	
Higher education	R86-26	180,882		2-5-86		180,882	4-16-86	
Special Institutions								
Howard University	R86-27	5,699		2-5-86		5,699	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of May 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Office of Educational Research and Improvement								
Libraries	R86-28	33,017		2-5-86		33,017	4-16-86	
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R86-8		38,489	3-12-86				
Fossil energy research and development	R86-80		13,072	3-12-86				
	R86-80A		13,130	4-8-86				
Energy conservation	R86-77		9,816	3-12-86				
	R86-77A		5,344	3-20-86				
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R86-9	211,455		2-5-86		211,455	4-17-86	
Indian health	R86-29	24,262		2-5-86		24,262	4-16-86	
Indian health facilities	R96-30	38,642		2-5-86		38,642	4-16-86	
Centers for Disease Control								
Disease control, research, and training	R86-31	34,096		2-5-86		34,096	4-17-86	
National Institutes of Health								
National Cancer Institute	R86-32	6,800		2-5-86		6,800	4-18-86	
National Heart, Lung and Blood Institute	R86-33	11,469		2-5-86		11,469	4-18-86	
National Institute of Diabetes and Digestive and Kidney Diseases	R86-34	7,980		2-5-86		7,980	4-18-86	
National Institute of Neurological and Communicative Disorders and Strokes	R86-35	9,554		2-5-86		9,554	4-18-86	
National Institute of Allergy and Infectious Disease	R86-36	1,513		2-5-86		1,513	4-18-86	
National Institute of General Medical Sciences	R86-37	7,358		2-5-86		7,358	4-18-86	
National Institute of Child Health and Human Development	R86-38	1,150		2-5-86		1,150	4-18-86	
National Eye Institute	R86-39	5,224		2-5-86		5,224	4-18-86	
National Institute on Aging	R86-40	2,679		2-5-86		2,679	4-18-86	
Office of the Director	R86-41	23,055		2-5-86		23,055	4-18-86	
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R86-42	39,718		2-5-86		39,718	4-18-86	
Health Care Financing Administration								
Program management	R86-43	912		2-5-86		912	4-16-86	
Social Security Administration								
Refugee and entrant assistance	R86-44	87,551		2-5-86		87,551	4-16-86	
Human Development Services								
Human development services	R86-45	29,980		2-5-86		29,980	4-16-86	
Family social services	R86-46	6,157		2-5-86		6,157	4-16-86	
Work incentives	R86-47	45,884		2-5-86		45,884	4-16-86	
Community services block grant	R86-48	182,139		2-5-86		182,139	4-16-86	
Community development credit union revolving fund	R86-49	2,529		2-5-86		2,529	4-16-86	
Departmental Management								
General Departmental management	R86-50	19,619		2-5-86		19,619	4-16-86	
Policy research	R86-51	220		2-5-86		220	4-16-86	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs	R86-52	4,416,151		2-5-86		4,416,151	4-16-86	
Congregate services program	R86-53	2,555		2-5-86		2,555	4-16-86	
Housing counseling assistance	R86-54	3,313		2-5-86		3,313	4-16-86	
Community Planning and Development								
Urban development action grants	R86-55	220,062		2-5-86		220,062	4-16-86	
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Land acquisition	R86-56	3,000		2-5-86		3,000	4-16-86	
United States Fish and Wildlife Service								
Land acquisition	R86-57	4,951		2-5-86		4,951	4-16-86	
National Park Service								
Construction	R86-58	13,613		2-5-86		13,613	4-16-86	
Land acquisition	R86-59	83,917		2-5-86		83,917	4-16-86	
Historic preservation fund	R86-60	18,523		2-5-86		18,523	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of May 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF JUSTICE								
Federal Prison System								
National Institute of Corrections	R86-61	3,315		2-5-86		3,315	4-16-86	
Office of Justice Programs								
Justice assistance	R86-62	134,666		2-5-86		134,666	4-16-86	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R86-63	416,037		2-5-86		416,037	4-16-86	
DEPARTMENT OF TRANSPORTATION								
Federal Railroad Administration								
Rail service assistance	R86-64	14,355		2-5-86		14,355	4-16-86	
Northeast corridor improvement program	R86-65	11,962		2-5-86		11,962	4-16-86	
Railroad rehabilitation and improvement financing funds	R86-66	32,059		2-5-86		32,059	4-16-86	
Urban Mass Transportation Administration								
Discretionary grants	R86-67	521,275		2-5-86		521,275	4-16-86	
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
Payments to State and local government fiscal assistance trust fund	R86-68	759,975		2-5-86		759,975	4-16-86	
Federal Law Enforcement Training Center								
Salaries and expenses	R86-69	4,976		2-5-86		4,976	4-16-86	
United States Customs Service								
Salaries and expenses	R86-70	4,169		2-5-86		4,169	4-16-86	
Operation and maintenance, air interdiction program	R86-71	19,275		2-5-86		19,275	4-16-86	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development	R86-72	26,796		2-5-86		26,796	4-16-86	
OFFICE OF PERSONNEL MANAGEMENT								
Government payment for annuitants, employees health benefits	R86-73	600,000		2-5-86		600,000	4-16-86	
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission								
Appalachian regional development programs	R86-74	81,000		2-5-86		81,000	4-16-86	
Corporation for Public Broadcasting								
Public broadcasting fund	R86-75	44,000		2-5-86		44,000	4-16-86	
National Endowment for the Humanities								
Grants and administration	R86-76	1,903		2-5-86		1,903	4-16-86	
State Justice Institute								
Salaries and expenses	R86-78	7,656		2-5-86		7,656	4-16-86	
United States Railway Association								
Administrative expenses	R86-79	640		2-5-86		640	4-16-86	
Total, rescissions		9,945,671	194,351			9,945,671		

Notes. - The amount of the rescission proposal for Subsidized housing programs (R86-52) for the "Rental rehabilitation grants program" was inadvertently shown in the Third Special Message as $71,755,000 instead of $71,775,000. This report reflects the correct amount.

The following rescission proposal has been adjusted downward to reflect the impact of sequestration: R86-54..... $3,312,500

On April 8, 1986, the General Accounting Office reclassified a portion of Deferral No. 86-6A as a rescission. This is shown above as Rescission No. 86-80A.

Attachment B - Status of Deferrals - Fiscal Year 1986

As of May 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Foreign military sales credit.....	D86-32	4,590,000		2-5-86	2,453,162				2,136,838
Economic support fund.....	D86-24	1,222,216		11-25-85					
	D86-24A		1,936,060	2-5-86	1,554,621			10,116	1,643,771
Military assistance program.....	D86-33	661,350		2-5-86	618,146				43,204
International military education and training.....	D86-34	27,245		2-5-86	27,245				0
Agency for International Development									
International disaster assistance.....	D86-59	64,607		3-12-86	38,023				26,585
Multilateral Development Banks									
Contribution to the special facility for sub-saharan Africa.....	D86-35	75,000		2-5-86	75,000				0
DEPARTMENT OF AGRICULTURE									
Farmers Home Administration									
Rural housing insurance fund.....	D86-60	700,000		3-12-86					700,000
Forest Service									
Expenses, brush disposal.....	D86-2	77,913		10-1-85					
	D86-2A		30,893	3-12-86	7,300				101,506
Timber salvage sales.....	D86-3	22,854		10-1-85	151				22,702
Cooperative work.....	D86-61	442,336		3-12-86					442,336
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Economic development assistance programs.....	D86-36	40,000		2-5-86					40,000
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85	32,333				0
Fisheries loan fund.....	D86-25	1,959		11-25-85					
	D86-25A		338	2-5-86					2,297
Patent and Trademark Office									
Salaries and expenses.....	D86-65	1,977		3-20-86					1,977
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense.....	D86-4	353,079		10-1-85					
	D86-4A		1,488,579	2-5-86	1,859,651			20,343	2,350
Family Housing									
Family housing, Defense.....	D86-27	11,800		11-25-85					
	D86-27A		210,042	2-5-86	83,042				138,800
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D86-5	1,168		10-1-85					
	D86-5A		88	2-5-86	124			106	1,238
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply, research and development activities.....	D86-38	65,763		2-5-86	39,909				25,854
Uranium supply and enrichment activities...	D86-58	584,158		2-5-86					584,158
Fossil energy research and development.....	D86-6	9,247		10-1-85					
	D86-6A		55,565	2-5-86	33,174			(6,490)	25,148
Fossil energy construction.....	D86-7	7,038		10-1-85	4,964				2,074
Naval petroleum and oil shale reserves.....	D86-8	155,668		10-1-85					
	D86-8A		10,798	2-5-86	130,005				36,461
Energy conservation.....	D86-9	9,880		10-1-85					
	D86-9A		26,902	3-12-86	18,400			3,080	21,462
Strategic petroleum reserve.....	D86-37	197,941		2-5-86	156,759				41,182

Attachment B - Status of Deferrals - Fiscal Year 1986

As of May 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-86
SPR petroleum account	D86-10	536,958		10-1-85					
	D86-10A		40,576	2-5-86					577,534
Alternative fuels production	D86-11	1,149		10-1-85					
	D86-11A		750	2-5-86	1,899				0
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D86-62	400		3-12-86					400
Southeastern Power Administration, Operation and maintenance	D86-12	25,344		10-1-85	23,936			681	2,089
Southwestern Power Administration, Operation and maintenance	D86-13	5,000		10-1-85					
	D86-13A		8,243	2-5-86					13,243
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D86-14	27,095		10-1-85					
	D86-14A		16,371	3-12-86					43,466
Departmental Administration									
Departmental administration	D86-15	8,501		10-1-85	8,501				0
	D86-63	393		3-12-86					393
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program)	D86-16	3,000		10-1-85					3,000
Health Care Financing Administration Program management	D86-57	8,489		2-5-86					8,489
Social Security Administration									
Limitation on administrative expenses (construction)	D86-28	6,489		11-25-85					
	D86-28A		157	2-5-86					6,647
Limitation on administrative expenses (excludes disability determination services)	D86-39	30,000		2-5-86	30,000				0
Limitation on administrative expenses (information technology systems)	D86-40	114,641		2-5-86					114,641
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing - Budget authority	D86-41	7,032,443		2-5-86	4,731,637				2,300,805
Contract authority	D86-42	641		2-5-86	641				0
Rental housing development grants	D86-43	77,400		2-5-86	77,400				0
Congregate services program	D86-44	2,670		2-5-86	2,670				0
Housing for the elderly or handicapped fund	D86-45	599,801		2-5-86	69,581				530,220
Nonprofit sponsor assistance	D86-46	1,000		2-5-86	543				457
Community Planning and Development									
Rental rehabilitation grants program	D86-47	77,000		2-5-86	77,000				0
Community development grants	D86-48	500,000		2-5-86					500,000
Urban development action grants	D86-49	251,000		2-5-86	251,000				0
Rehabilitation loan fund	D86-50	135,535		2-5-86	4,402				131,133
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d)	D86-66	49		3-20-86					49
National Park Service									
Land acquisition and State assistance	D86-64	1,893		3-12-86					1,893
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities	D86-17	20,000		10-1-85					
	D86-17A		10,730	2-5-86					30,730
Office of Justice Programs									
Crime victims fund	D86-18	100,000		10-1-85					
	D86-18A		3,396	2-5-86	4,300				99,096

Attachment B - Status of Deferrals - Fiscal Year 1986

As of May 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-86
DEPARTMENT OF LABOR									
Employment and Training Administration									
State unemployment insurance and employment service operation	D86-51	37,000		2-5-86	33,089				3,911
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D86-19	18,082		10-1-85					18,082
Other									
Assistance for implementation of a Contadora agreement	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Conrail labor protection	D86-52	4,565		2-5-86					4,565
Urban Mass Transportation Administration									
Discretionary grants	D86-21	223,600		10-1-85		223,600	P.L. 99-190		0
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D86-29	696,438		11-25-85					
	D86-29A		681,723	2-5-86	28,011				1,340,151
Maritime Administration									
Operations and training	D86-53	9,350		2-5-86					
	D86-53A		888	3-20-86	8,500				1,738
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D86-30	7,743		11-25-85					
	D86-30A		97,483	2-5-86					
	D86-30B		19,774	3-12-86	125,712			712	(0)
Local government fiscal assistance trust fund	D86-31	54,349		11-25-85					
	D86-31A		25,651	3-12-86	5,049			244	75,195
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses	D86-54	233		2-5-86					233
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	D86-23	243		10-1-85	43				200
Dual benefits payments account	D86-55	2,201		2-5-86	2,009				192
United States Information Agency									
Acquisition and construction of radio facilities	D86-56	66,545		2-5-86	4,880				61,666
TOTAL, DEFERRALS		20,055,719	4,665,008		12,622,811	223,600		58,792	11,933,107

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30B) of outlays only.

Some of the amounts shown above as "Cumulative OMB/Agency Releases" were sequestered pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

On April 8, 1986, the General Accounting Office reclassified a portion of Deferral No. 86-6A as a rescission. This is shown on Attachment A as Rescission No. 86-80A.

[FR Doc. 86-11081 Filed 5-15-86; 8:45 am]

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Federal Register

Friday
May 16, 1986

Part V

Department of the Treasury

Fiscal Service

31 CFR Part 357

Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

[Department of the Treasury Circular, Public Debt Series No. 2-86]

Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills

AGENCY: Bureau of the Public Debt, Fiscal Service.

ACTION: Final rule.

SUMMARY: The Bureau of the Public Debt hereby publishes, as a final rule, that portion of the proposed rule establishing a revised book-entry system governing all marketable Treasury securities to be held in the TREASURY DIRECT book-Entry Securities System [formerly known as "T–DAB" but now referred to as "TREASURY DIRECT"]. With the exception of certain definitions which apply only to TREASURY DIRECT, Subpart A of the rule, which provides general and definitional information about the revised book-entry system, and certain other provisions of the rule governing marketable Treasury securities held in the commercial counterpart [formerly known as "T–FED" but now known as "TRADES," i.e., Treasury/Reserve Automated Debt Entry System], were published separately for comment at 51 FR 8846 on March 14, 1986. That portion will be published as part of the final rule after the end of the comment period and following consideration of the comments submitted.

As explained in the notice of proposed rulemaking for the TREASURY DIRECT regulations on December 2, 1985, at 50 FR 49412, Treasury bonds and notes issued after the effective date for TREASURY DIRECT will no longer be offered in physical form, but will be available only in book-entry. Treasury bills, which are currently offered only in book-entry form, will be added to the TREASURY DIRECT system on a phased-in basis. All book-entry Treasury securities will be available in TRADES, which will be essentially a continuation of the system currently being maintained through the Federal Reserve Banks.

To provide a complete rule in a single document, the Department plans to republish the final TREASURY DIRECT regulations set forth below with the publication of the regulations as finally adopted for TRADES.

EFFECTIVE DATE: These regulations shall be effective July 1, 1986, and shall apply to securities made eligible for TREASURY DIRECT either by the applicable offering circular or by announcement by the Secretary of the Treasury.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Attorney-Adviser (202-376-4320), or John E. Logue, Attorney-in-Charge (202-447-9859).

SUPPLEMENTARY INFORMATION: The Bureau of the Public Debt, in its Notice of Proposed Rulemaking on December 2, 1985, at 50 FR 49412, referred to the book-entry system to be established by the regulations as T–DAB, an acronym for Treasury Direct Access Book-Entry Securities System. It was subsequently decided that TREASURY DIRECT would be more understandable in referring to the new book-entry system, better communicating its central feature, i.e., a Treasury-operated system to which investors have direct access. Where the term "T–DAB" appeared in the proposed rule, the term "TREASURY DIRECT" has now been substituted.

Discussion of Final Rule

Backgound

Twenty-four written comments were received to the notice of proposed rulemaking from various sources, including Federal agencies, trade associations, as well as financial and commercial investment institutions. With the exception of one bank, all commentators endorsed the concept of a certificateless security.

The grouping and identification of the comments received have been made on a section-by-section basis, with an explanation of the action taken with respect thereto. As circumstances necessitated the publication of the rule in two segments, in order to make each part more understandable, certain definitions, such as those for "Department" and "securities", have appeared in the proposed rule for both TREASURY DIRECT and TRADES, and were slightly modified in the proposed rules on TRADES. Because these modifications represent non-substantive clarifications, and to avoid confusion as between the two portions of the rules, the definitions as used in TRADES have been adopted.

Section-By-Section Analysis

Section 357.21 Registration.

The forms of registrations provided for securities to be held in TREASURY DIRECT have different legal effect from those currently provided for in the case of definitive Treasury securities and for the Treasury's book-entry Treasury bill system. A comment was received that, as a result, this could lead to some confusion, and that the Treasury bill forms of recordation currently offered should be changed, particularly since Treasury bills will be phased into TREASURY DIRECT gradually. The Bureau believes that the benefits of uniformity of rights and interests that TREASURY DIRECT investors will derive far outweigh any possible confusion. As for confusion with the current Treasury bill book-entry system, given the fact that Treasury bills have a term of not more than a year, it is believed that the problem, if any, will be short-lived.

Given the importance of the change that TREASURY DIRECT provides as to registration, the discussion thereof that accompanied the Notice of Proposed Rulemaking is re-published below.

"*Forms of Registration.* The proposed rule provides the investor with a variety of registration options. They are essentially similar to those provided for registered, definitive marketable Treasury securities. Investors should be particularly aware that, where the security is held in the names of two individuals, the registration chosen may establish rights of survivorship.

"The reason for establishing the rights of ownership for securities held in TREASURY DIRECT is that it will give investors the assurance that the forms of registration they select will establish conclusively the rights to their book-entry securities. It will also serve to eliminate some of the uncertainties, as well as possible conflicts, between the varying laws of the several States.

"A Federal rule of ownership is being adopted by the Treasury for TREASURY DIRECT securities. This regulatory approach is consistent with the one previously taken in the case of United States Savings Bonds. It will have the effect of overriding inconsistent State laws. See, *Free v. Bland,* 369 U.S. 663 (1962).

"In the case of individuals (who are likely to be by far the majority of holders of securities in TREASURY DIRECT), the options offered will permit virtually all the preferred forms of ownership. At the investor's option, it will be possible to provide for the disposition of the securities upon death through rights of survivorship.

"*Coownership registration.* One option is the coownership form of registration, i.e., "A or B." Unlike the current Treasury bill book-entry system being administered by the Bureau of the Public Debt, a security held in TREASURY DIRECT registered in this form will be transferable upon the written request of *either* coowner. Other changes in the account may also be made upon the request of *either* party.

While this form of registration will facilitate the receipt of payments and provide ease in conducting transactions, care should obviously be exercised in designating a coowner.

"*Joint ownership.* For those who would prefer to have the transferability of a security held in two names contingent upon the request of both, the joint form of registration will be appropriate. This form of registration, i.e., "A and B, with [without] the right of survivorship," will require the agreement of both parties to conduct any authorized transaction.

"*Beneficiary form.* The beneficiary form, i.e., "A payable on death to (POD) B," will permit the owner to have sole control of the account during his/her lifetime, but in the event of death, the account will pass by right of survivorship to the beneficiary."

One commentator questioned the "natural guardian" and "voluntary guardian" forms of registration provided in the regulations, pointing out that financial institutions are reluctant to establish an account in the name of a natural guardian of a minor because of the uncertainties as to who might be entitled to the funds on the death of the natural guardian or minor, or when the minor reached majority. It was mentioned that a bank would be reluctant to open an account in the name of a voluntary guardian, or to release funds from an existing account to a voluntary guardian because of the potential risk in the event of a claim from a court-appointed guardian. It seems apparent that the comment was prompted by the provision that appeared in the proposed rule that the account held in TREASURY DIRECT and the deposit account to which payments are to be directed should be in the same form. As hereafter pointed out in the discussion under the payment section, this is not a requirement.

While parents are universally recognized as the natural guardians of the person of minors, they have generally not been recognized as entitled to control the estates of these minors, except perhaps in the case of small amounts. Traditionally, the guardian of the estate of a minor involves judicial appointment and supervision. In order to provide a means of dealing with the problem of disposing of securities inadvertently registered in the name of minors without requiring the appointment of a legal guardian and to provide a means for investing funds of a minor, which did not technically qualify for investment under the Uniform Gifts to Minors Act, the Department decided to provide recognition for natural guardians.

The voluntary guardianship procedure is wholly a creature of the Department's regulations. It was established in recognition of the burden placed on an incompetent's estate and his/her family by requiring the appointment of a legal guardian to receive the interest on, or to redeem securities for, the account of an individual who has become incompetent, at least where the incompetent's estate is relatively modest. This form of registration is not available on original issue and is limited to an aggregate of $20,000 (par amount) of TREASURY DIRECT securities. The $20,000 limit in connection with the use of the voluntary guardianship procedure is in keeping with the limits used in connection with the summary administration of decedents' estates under the laws of many States.

Section 357.23 Judicial proceedings.

No comments were received regarding the provisions on judicial proceedings. Given their importance, the discussion that accompanied the publication thereof in proposed form is included here.

"*Judicial proceedings.* Under the principle of sovereign immunity, neither the Department nor a Federal Reserve Bank, acting as fiscal agent of the United States, will recognize a court order that attempts to restrain or enjoin the Department or a Federal Reserve Bank from making payment on a security or from disposing of a security in accordance with instructions of the owner as shown on the Department's records.

"The Department will recognize a final court order affecting ownership rights in TREASURY DIRECT securities provided that the order is consistent with the provisions of Subpart C and the terms and conditions of the security, and the appropriate evidence, as described in § 357.23(c), is supplied to the Department. For example, the Department may recognize final orders arising from divorce or dissolution of marriage, creditor or probate proceedings, or cases involving application of a State slayer's act. The Department will also recognize a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of the security or payment with respect thereto, provided conditions similar to those above are met."

Section 357.25 Security interests.

TREASURY DIRECT is not designed to reflect or handle the various types of security interests that may arise in connection with a Treasury bond, note or bill. However, the Treasury has from time to time and to a limited extent held in safekeeping, for such agencies as the Customs Service and Immigration and Naturalization Service, Treasury securities submitted in lieu of surety bonds in accordance with 31 U.S.C. 9303. While the Federal Reserve Banks handle the majority of such pledges and will continue to do so, as this statute requires the Treasury to accept these Government obligations so pledged, a provision has been added for accepting and holding book-entry securities submitted for such purposes.

Section 357.26 Payments.

(a) *General.* Most comments focused on the provisions on payments. A key feature of TREASURY DIRECT will be the making of payments by the direct deposit method (also known as the electronic funds transfer or ACH method). Checks will be issued only under extraordinary circumstances. A number of comments endorsed the concept of payment by direct deposit as an improvement given the difficulties associated with checks.

One comment expressed concern as to who would have the burden of resolving errors in cases where a receiving financial institution fails to properly credit a payment. The Department has concluded that while the direct deposit payment method is not without risks, it is far superior to the use of checks, in terms of the risks, potential losses, and costs. In a case where a receiving institution fails to act in accordance with the instructions given it, the Bureau intends to use its best efforts to assist investors in rectifying the error.

(b) *Direct deposit.* A number of comments expressed the view that the TREASURY DIRECT payment system should adopt either the rules governing the direct deposit of Government payments (31 CFR Part 210), or the rules of the National Automated Clearing House Association ("NACHA Rules"), but not separate rules. The final rules have adopted some of the existing practices applicable to commercial ACH payments, but it is not possible for the Department of the Treasury to conform to all of these rules. For example, the Treasury has no authority to indemnity recipients of direct deposit payments, although such indemnification by a sender is contemplated in the NACHA rules and was advocated in several comments. It should also be noted that the rules applicable to TREASURY DIRECT payments are modeled, to some extent, on the rules for Government direct deposit payments in order to take advantage of the large number of entities that are a part of the

Government direct deposit network. See the discussion under paragraph (b)(2). Where there are unique rules applicable to TREASURY DIRECT, however, they are explained here.

Given the variance between the procedures set out in the proposed rules and existing practice, and the increased burdens resulting therefrom, several clearing house associations and financial institutions requested that the implementation of TREASURY DIRECT be delayed from July 1986 to July 1987. The Treasury is satisfied that the added burdens that would have been imposed on financial institutions to receive TREASURY DIRECT payments under the proposed rules have been effectively eliminated in the final rule. Thus, Treasury plans to implement the system on or about the original target date. The final rules are being published, however, in advance of actual implementation so as to give financial institutions an opportunity to make whatever remaining, minor procedural changes as may be necessary.

(b)(1) *Information on deposit account at financial institution.* The proposed regulations provided that the owner of a security in TREASURY DIRECT, or in the case of ownership by two individuals, the first-named owner, must be an owner of, and so designated, on the account at the receiving financial institution. The regulations also provided that in any case in which a security is held jointly or with right of survivorship, the account at the financial institution should be established in a form that assures that the rights of each joint owner or survivor will be preserved.

The rule requiring the naming of the first-named owner on the receiving financial institution account was based on tax reporting considerations. It has now been determined that the first-named security owner need not be named on the receiving deposit account.

The rule relating to establishment of the receiving account in joint ownership cases in the same form as the registration of the security was intended to be a notice to investors of a potential problem, rather than a requirement. In cases where an investor intends a beneficiary, joint owner or coowner to receive securities after the investor's death, this intention may be defeated if the recipient is not also named on the receiving deposit account. It is up to the investor to examine his or her particular circumstances and determine whether the form in which the deposit account will be held is satisfactory. This matter has been clarified in paragraph (b)(1)(v) of the final rule. Except for the restriction described in paragraph (b)(1)(ii) (see below), the Treasury does not intend to establish any limitations on how the receiving deposit account is held.

Several comments addressed the issue of the registration of the security versus the title of the deposit account. Two comments pointed out that if the deposit account must be in the same form as the registration of the security, then existing traditional forms of ownership for bank accounts, which do not include all the forms of registration for securities held in TREASURY DIRECT, would not suffice. Concerns were also expressed that with multiple forms of ownership, financial institutions could become involved in disputes with investors. As noted above, there is no requirement that the TREASURY DIRECT account and the deposit account be identical. The responsibility to choose the title of the deposit account rests with the investor.

Another comment objected to the rule that the first-named security owner be named on the receiving deposit account because the rule would eliminate the possibility of payment to an account at a financial institution in the name of a mutual fund, security dealer, or insurance company. Although the change in the tax reporting rule described above permits payment to such accounts, as well as to trust accounts, since it appears that there is a question as to the capability of some receiving institutions to handle such payments, investors are strongly urged to consult their financial institution before requesting such payment arrangements. See paragraph (b)(1)(iii).

It should be emphasized that any payments that must be made by check will be made in the form in which the TREASURY DIRECT account is held, which may be different than the form of the deposit account. Investors should be aware that this may result in checks being issued, and thus payment being made, in a form different than they intended the direct deposit payments to be made. For example, if Investor A purchases a security in his or her name alone with instructions that payments be directed to a financial institution for the account of a money market fund, any checks that must be issued will be drawn in the name of Investor A. This could happen if Investor A furnishes erroneous payment instructions and the problem cannot be resolved before a payment date, in which case a check would be issued.

The one restriction on the form of the deposit account that appears in paragraph (b)(1)(ii) of the final regulations is a rule that where the TREASURY DIRECT account is in the name of individual(s), and the receiving deposit account is also in the name of individual(s), one of the individuals on the TREASURY DIRECT account must be named on the deposit account. This rule is intended to provide a means to determine the disposition of the payment, if necessary. The Treasury does not expect financial institutions to monitor this rule.

Provision has been made in paragraph (b)(1)(vii) to permit financial institutions to request "mass changes" of deposit account numbers without the submission of individual requests from investors to TREASURY DIRECT. This procedure is intended for use where an institution changes all or an entire group of its account numbers, typically as a result of an organizational change. TREASURY DIRECT will honor requests from a financial institution to change deposit account numbers under such circumstances, with the understanding that the institution agrees to indemnify the Treasury and the security owners for any losses resulting from errors made by the institution. If the institutions does not wish to use the "mass change" procedure, then the change in account number must be requested by the investor, using the authorized transaction request form. See § 357.28.

Some institutions voiced concern in general about investor errors in furnishing the TREASURY DIRECT a deposit account number and the financial institution's routing number. Although the Treasury plans to provide as much assistance to investors as possible, the investor must bear the responsibility for securing accurate payment information. Investors are urged to consult with their receiving institution to verify the accuracy of the payment information, since neither the Treasury nor the receiving financial institution would be responsible for payment errors resulting from erroneous information provided by investors.

The proposed rule provided in § 357.26(b)(1)(iii) that the designation of a financial institution by a security owner to receive payments from TREASURY DIRECT would constitute the appointment of the financial institution as agent for the owner for the receipt of payments. The crediting of a payment to the financial institution for deposit to the owner's account, in accordance with the owner's instructions, would discharge the United States of any further responsibility for the payment. One comment noted that, in contrast, the rule in 31 CFR § 210.13 for Federal recurring payments is that the United States is not acquitted until the payment is credited to the account of

the recipient on the books of a financial institution.

Although, in principle, the same rules should apply to all Government payments, the proposed TREASURY DIRECT rule has been retained in the final regulations on the basis of the major differences in the procedures to be used in TREASURY DIRECT. Most significantly, the Treasury will not be securing any written verification (*i.e.*, an enrollment form) from a financial institution as to the accuracy of the deposit account number and other payment information, as is now the practice in the case of payments under 31 CFR Part 210. Under these circumstances, the Treasury cannot, in effect, guarantee that a payment will be credited by a financial institution to the correct account. It should also be noted that this rule on acquittance of the United States is consistent with the provision in § 357.10(c) of the proposed regulations on TRADES. In practice, however, the Treasury plans to participate actively in seeking to locate and recover any payments that have been misdirected.

(b)(2) Agreement of financial institution. The proposed rule provided, in Sec. 357.26(b)(2), that a financial institution which has agreed to accept payments under 31 CFR Part 210 shall be deemed to have agreed to accept payments from TREASURY DIRECT. The rule further provided that an institution could not be designated to receive TREASURY DIRECT payments unless it had agreed to accept direct deposit payments under 31 CFR Part 210.

One financial institution commented that a receiving institution that has already agreed to accept Part 210 payments should have the choice as to whether to accept payments from TREASURY DIRECT. The basis for this comment was the perception that the receipt of TREASURY DIRECT payments would require the implementation of special procedures by the financial institution and expose it to additional risks. As explained earlier, the Treasury has significantly modified the procedures and reduced the requirements imposed upon a financial institution in order to receive TREASURY DIRECT payments, and decreased as well the risks an institution will incur in the receipt of such payments. Thus, the proposed rule on eligibility of receiving institutions has been retained in the final rule in essentially the same form.

Two other comments were made to the effect that the category of institutions receiving payments should be broadened. In deciding to authorize payments to all institutions receiving Part 210 payments, the Treasury considered the fact that many more institutions are designated endpoints for Government (direct deposit) payments than for commercial ACH payments. In order to afford investors the widest choice of recipient institutions, all institutions that had agreed to accept Part 210 payments were designated as authorized recipients. Treasury has now broadened the rule further to also authorize those financial institutions that are willing to agree to accept Part 210 payments in the future. This rule will permit investors to designate institutions that are not now receiving Government direct deposit payments as the recipients of their TREASURY DIRECT payments if the institutions make appropriate arrangements with the Federal Reserve Bank of their District.

(b)(3) *Pre-notification.* A significant feature of the TREASURY DIRECT payment procedure will be the use of a pre-notification message sent to the receiving financial institution in advance of the first payment. This procedure, already in use for commercial ACH payments, alerts the institution that a payment will be made and provides an opportunity for verification of the accuracy of the account information.

The proposed regulations provided that the financial institution would be required to reject the pre-notification message within four calendar days after the date of receipt if the information contained in the message did not agree with the records of the institution or if for any other reason the institution would not be able to credit the payment. The rules also stated that a failure to reject the message within the specified time period would be deemed an acceptance of the pre-notification and a warranty that the information in the message was accurate.

Because there was some confusion over when the pre-notification message woud be sent, the final rules clarify, in paragraph (b)(3)(i), that in most cases, this will occur shortly after establishment of a TREASURY DIRECT account. The Treasury has under consideration a system change that would permit a second pre-notification to be sent closer to the time of the payment if the first payment is to occur a substantial length of time after account establishment.

One of the items of information contained in a pre-notification message is the name the investor has indicated appears on the deposit account. Comments were received that existing procedures and software do not permit automatic verification of the account name. Although there is apparently some variation in practice, and some institutions undertake to verify the account name information manually, the Treasury has decided to drop the account name verification requirement in the final rules. This means that under paragraph (b)(3)(ii), a financial institution need only verify the account number and type designations on the pre-notification message. However, the Treasury urges institutions which are able to verify account names to do so and encourages the development of software that would have this capability.

A number of comments urged that the four-day period provided for an institution to reject a pre-notification message be lengthened. After consideration of the various alternatives proposed, the Treasury has concluded that an eight-day period will meet the needs of most institutions. See paragraph (b)(3)(ii) of the final rule. In responding to a pre-notification message, an institution may use the NACHA's "notification of change" procedure, standardized automated rejection codes, or any other similar standard procedure. Upon receipt of such notification, the Treasury will either make the necessary changes in the TREASURY DIRECT account or contact the investor, depending on the circumstances.

One commentator objected to the warranty by the receiving institution as to the accuracy of the pre-notification information, particularly in view of the manual verification or changes in procedures that would be required, and the resulting possibility of error. As previously noted, the requirement to verify an account name has been eliminated. In addition, language has been added to make it clear that the verification is limited to the time of pre-notification. The Treasury is of the view that the warranty is a useful concept in encouraging institutions to respond to pre-notification messages and will benefit all concerned by increasing the likelihood that payments will be made accurately and to the appropriate party.

(b)(5) *Responsibility of financial institution.* The proposed regulations provided, in § 357.26(b)(5)(ii), that a financial institution that receives a TREASURY DIRECT payment on behalf of a customer would be required to promptly notify the Treasury when it has made a change in the status or ownership of the customer's deposit account, such as the deletion of the first-named owner of the security from the title of the account, or when the institution is on notice of the death or

incompetency of the owner of the deposit account.

Several financial institutions objected to this requirement on the grounds that it would be burdensome and would require the development of new procedures to monitor the changes in deposit accounts. Specifically, several institutions indicated they would be unable to relate the receipt of TREASURY DIRECT payments, which would be handled in a centralized area of the institution, to the changes being made in a deposit account, which are handled in another operational area of the institution. These institutions said they would not necessarily be aware of who is the first-named owner of the security in TREASURY DIRECT, and that more responsibility should be placed on the security owner in reporting changes.

In response to these comments, the Treasury has narrowed the notification rule, in paragraph (b)(5)(ii) of the final rule, to require a financial institution to notify TREASURY DIRECT only in cases where it is on notice of the death or legal incapacity of an individual named on the deposit account, or where it is on notice of the dissolution of a corporation named in the deposit account. Upon receipt of notice by the area of the institution that receives credit payments, the institution will be required to return any TREASURY DIRECT payments received thereafter.

(b)(6) *Payments in error/duplicate payments.* The proposed regulations, in § 357.26(b)(6), set out rules describing the procedure that would be followed in cases where the Treasury or a Federal Reserve Bank has made a duplicate payment or a payment in error. First, the financial institution to which the payment was directed would be provided with a notice asking for the return of the amount of the payment remaining in the deposit account. If the financial institution were unable to return any part of the payment, it would be required to notify the Treasury or its Federal Reserve Bank, and provide the names and addresses of the persons who withdrew funds from the deposit account after the date of the duplicate payment or the payment in error. If the financial institution did not respond to the notice within 30 days, the financial institution's account at its Federal Reserve Bank could be debited in the amount of the duplicate or improper payment.

Several institutions raised objections about various aspects of the above procedures. One stated that 30 days was an insufficient time to respond and urged conformity with the rules in 31 CFR Part 210 permitting a 60-day response time. Some objected to furnishing information about the persons who withdrew money from an account. Several objected in principle to the provision authorizing the debiting of their accounts. Several comments indicated that if a payment is returned by a financial institution using an automated payment reversal procedure, then only the full amount of the payment (not a partial amount) can be reversed.

In the final rule, the Treasury has clarified the procedures. The requirement to provide the names of persons who withdrew funds from an account has been changed. In paragraph (b)(6)(i), financial institutions are asked to provide only such information as they have about the matter. The debiting of an institution's account at a Federal Reserve Bank is intended to be simply a last resort if the institution fails totally to respond to the notice of a duplicate payment or payment made in error. See paragraph (b)(6)(iii). The time provided for response to this notice has been lengthened to 60 days.

The final rule has also been clarified in paragraph (b)(6)(i) to provide that the amount that should be returned is an amount equal to the payment. The Treasury reserves the right, however, to request the return by other than automated means of a partial amount of a payment made in error. It is anticipated that such a procedure would occur only if the notice of a payment made in error is not issued immediately after the payment was made.

(d) *Handling of payments by Federal Reserve Banks.* Some of the comments raised a question about the liability of the Federal Reserve Banks in making payments. The proposed rule, in § 357.26(d)(2), provided that each Federal Reserve Bank would be responsible only to the Department and would not be liable to any other party for any loss resulting from its handling of payments. This rule was taken from the existing regulations in 31 CFR Part 210 (see § 210.3(f)), and is simply a restatement of existing law.

In making payments, the Federal Reserve Banks are acting in the capacity as fiscal agents of the United States, pursuant to 12 U.S.C. 391. They are not acting in an individual (banking) capacity. If a Federal Reserve Bank misdirects a payment contrary to instructions provided by the investor, the United States, as principal, may remain liable to the investor for the payment. The United States could seek to recover any loss from its agent, the Fedeal Reserve Bank. However, because the proposed rule simply stated a legal conclusion and tended to create the impression that the rule was broader than intended, it has been omitted from the final regulations.

Section 357.31 Certifying individuals.

For clarity, the warranties which accompany the use of a "Signature guaranteed" stamp have been set out.

Section 357.42 Preservation of existing rights.

This section has been deleted. The same subject-matter will be covered in § 357.1, as finally adopted.

Section 357.43 Liability of Department and Federal Reserve Banks.

This section was published as § 357.42 in the notice of proposed rulemaking for TRADES. The final version will be published after all the comments on the rulemaking for TRADES have been reviewed and considered.

Section 357.46 Supplements, amendments, or revisions.

Provision for "charges and fees for services and maintenance of book-entry Treasury securities" has been added in the event circumstances should dictate their imposition.

Procedural Requirements

This rule is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required.

Although this rule was issued in proposed form to secure the benefit of public comment, the notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

The collection of information requirements in these regulations were submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). The Office of Management and Budget approved those requirements under control No. 1535–0068.

List of Subjects in 31 CFR Part 357

Electronic funds transfer, Federal Reserve System, Government securities.

Dated: May 9, 1986.

Gerald Murphy,

Fiscal Assistant Secretary.

Part 357 is added to Subchapter B of Title 31, Code of Federal Regulations, Chapter II, and issued as Department of the Treasury Circular, Public Debt Series No. 2–86, to read as follows. The "Discussion of Final Rule" portion of the

Supplementary Information section of this document is designated as Appendix A to Part 357 and is added to Part 357.

PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 2-86)

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Sec.
357.0–357.2 [Reserved]
357.3 Definitions.

Subpart B—Treasury/Reserve Automated Debt Entry System (TRADES)—[Reserved]

Subpart C—TREASURY DIRECT BOOK-ENTRY Securities System (TREASURY DIRECT)

357.20 Securities account in TREASURY DIRECT.
357.21 Registration.
357.22 Transfers.
357.23 Judicial proceedings—sovereign immunity.
357.24 Availability and disclosure of TREASURY DIRECT records.
357.25 Security interests.
357.26 Payments.
357.27 Reinvestment.
357.28 Transaction requests.
357.29 Time required for processing transaction request.
357.30 Case of delay or suspension of payment.
357.31 Certifying individuals.
357.32 Submission of transaction requests; further information.

Subpart D—Additional Provisions

357.40 Additional requirements.
357.41 Waiver of regulations
357.42 Liability of Department and Federal Reserve Banks. [Reserved]
357.43 Liability for transfers to and from TREASURY DIRECT.
357.44 Notice of attachment for securities in TRADES.—[Reserved]
357.45 Supplements, amendments, or revisions.
Appendix A—Discussion of Final Rule.

Authority: 31 U.S.C. Chapter 31; 12 U.S.C. 391.

Subpart A—General Information

§§ 357.0–357.2 [Reserved]

§ 357.3 Definitions.

In this Part, unless the context indicates otherwise:

"Bill" means an obligation of the United States, with a term of not more than one year, issued at a discount, under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Bond" means an obligation of the United States, with a term of more than ten years, issued under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Department" means the United States Department of the Treasury, and, where appropriate, the Federal Reserve Banks acting as fiscal agents of the United States.

"Depository institution" means an entity described in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)). Under section 19(b) of the Federal Reserve Act, the term "depository institution" includes:

(a) Any insured bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(b) Any mutual savings bank as defined in 12.U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(c) Any savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(d) Any insured credit union as defined in 12 U.S.C. 1752 or any credit union which is eligible to make application to become an insured institution under 12 U.S.C. 1781;

(e) Any member as defined in 12 U.S.C. 1422;

(f) Any insured institution as defined in 12 U.S.C. 1724 or any credit union which is eligible to make application to become an insured credit union under 12 U.S.C. 1726; and

(g) For the purpose of 12 U.S.C. 248(o), 342 to 347, 347c, and 372, any association or entity which is wholly owned by or which consists only of institutions referred to in paragraphs (a) through (d) of this definition.

"Federal Reserve Bank" or "Reserve Bank" means a Federal Reserve Bank or Branch.

"Financial institution" means, for purposes of direct deposit, an institution which has agreed to receive credit payments under 31 CFR Part 210, as amended from time to time, and has not withdrawn its participation in a direct deposit program under Part 210, or an institution which is willing to agree to receive credit payments under 31 CFR Part 210 and has enrolled with its Federal Reserve Bank.

"Incompetent" means an individual who is legally, medically or mentally incapable of handling his or her business affairs, except that a minor is not an incompetent solely because of age.

"Maturity value" is the amount that the Department is obligated to pay when a security matures.

"Minor" means an individual who is under the age of majority, as determined by applicable state law.

"Note" means an obligation of the United States, with a term of at least one year, but of not more than ten years, issued under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Original issue" means the offering by the Department of the Treasury of a marketable Treasury security to the public and its issuance in book-entry accounts maintained either directly by the Treasury or held through a Federal Reserve Bank.

"Owner," as used in Subpart C, means the individual(s) or entity in whose name a security is registered. If a security is registered in more than one name, the term "owner" incudes all those whose names appear on the registration and are authorized by this Part to make a transaction request on a security held in TREASURY DIRECT.

"Redemption" means payment of a security at maturity, or pursuant to a call for redumption in accordance with the terms of a security.

"Representative" includes an executor, administrator, legal guardian, committee, conservator, and any similar person or entity appointed by a court to represent the estate of a decedent, minor, or incompetent, as well as a trustee, whether appointed by a court or otherwise.

"Security" means a bond, note, or bill, each as defined in this section, and any other obligation issued by the Department that, by the terms of the applicable offering circular, are made subject to this Part. Solely for purposes of this Part, it also means the interest and principal components of a security eligible for Separate Trading of Registered Interest and Principal of Securities ("STRIPS"), if such security has been divided into such components by the express terms of the offering circular under which the security was issued and the components are maintained separately on the books of a Federal Reserve Bank.

"Security interest" and "pledge" mean an interest in a security, which interest is acquired by a secured party to secure payment or performance of an obligation and is created by a security agreement between the person having such obligation and the secured party.

"Taxpayer identifying number" or "TIN" means a social security account number or an employer identification number, as appropriate.

"TRADES" is the Treasury/Reserve Automated Debt Entry System.

"Transaction request" means a request to effect a change in an account master record or securities portfolio maintained in TREASURY DIRECT.

"Transaction request form" means a form or series of forms prescribed for use by the Department to request a transaction in TREASURY DIRECT. (This term includes a document that the Department has determined contains all of the elements required by the transaction request form.)

"TREASURY DIRECT" is the TREASURY DIRECT Book-Entry Securities System.

Subpart B—Treasury/Reserve Automated Debt Entry System (TRADES)—[Reserved]

Subpart C—TREASURY DIRECT Book-Entry Securities System (TREASURY DIRECT)

§ 357.20 Securities account in TREASURY DIRECT.

(a) *Account.* A securities account consists of:

(1) An account master record, and

(2) A securities portfolio.

(b) *Security.* A security in TREASURY DIRECT is evidenced by the account master record and a description of the security as set out in the securities portfolio associated with an account master record.

(c) *Account master record.* An owner must establish an account master record before the owner may deposit a security in TREASURY DIRECT. If the security is being purchased on original issue, the request that an account master record be established may be made on the form used for purchase of the security. If the security is being acquired other than on original issue, the request that an account master record be established should be made on the appropriate form that is provided by the Department. The account master record includes, but is not limited to, the following data:

(1) The exact form of registration in which the securities are held;

(2) The TREASURY DIRECT account number;

(3) The correspondence address for the account;

(4) The TIN of the owner, or in the case of ownership by two individuals, of the first-named owner; and

(5) Payment instructions. (See § 357.26.)

(d) *Securities portfolio.* The securities portfolio contains a description of each security and is the aggregate of all securities in the securities account.

(e) *Statement of account.* The Department shall send a statement of account ("statement") upon:

(1) Establishment of, or a change in, an account master record or the securities portfolio;

(2) Change in payment instructions; or

(3) An owner's request.

The statement shall contain information regarding the account as of the date of such statement. The price associated with each security in the securities portfolio will also appear on the statement.[1] The statement will normally be sent to the correspondence address designated in the account master record. When the statement is issued as a result of a change in ownership of a security, statements will be sent, where appropriate, to both the former and current owners. Other information regarding the account may be obtained in accordance with § 357.24

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§ 357.21 Registration.

(a) *General*—(1) Registration of a security conclusively establishes ownership, except in the case of partnership nominees, in which case the Department reserves the right to treat the registration as conclusive of ownership. The registration may not, except as provided in this Subpart, include any restriction on the authority of an owner to change the data in the account master record, transfer the security, or effect any other change in the securities portfolio.

(2) The registration of all securities held by an owner should be uniform with respect to the owner's name. An owner must be identified by the name by which the owner is ordinarily known, preferably including at least one full given name. A suffix, such as "Sr." or "Jr.", must be included when ordinarily used, or when necessary to distinguish members of the same family.

(3) If an additional security is deposited in an existing account, the security will be registered in the same name and form of registration that appears in the designated account master record. One who holds a security as "John Allen Doe" should use that name when depositing another security rather than "J. Allen Doe", or "John A. Doe'. Minor variations in names used in acquiring a security to be deposited in an established account may be resolved by the Department.

(b) *Natural persons.* A security may be registered in the names of one or two individuals, but only in one of the following forms:

(1) *Single ownership.* In the name of one individual.

Example: Robert W. Woods

An individual who is sole proprietor of a business conducted under a trade name may include a reference to the trade name.

Example: John A. Doe, doing business as Doe's Home Appliance Store.

(2) *Ownership by two individuals.*

(i) *"And" form—Joint Ownership*—(A) *Without right of survivorship.* In the names of two individuals, joined by the word "and", and followed by the words "without right of survivorship". A security so registered shall conclusively confer on each owner an undivided interest in the security.

Example: Elizabeth Black and Jane Brown, without right of survivorship.

Any request for registration which purports, by its terms, to preclude the right of survivorship, or which requests registration in the names of two persons without indicating whether survivorship rights attach (other than a registration under paragraph (b)(2)(ii) of this section), will be presumed to be a request for registration without right of survivorship. If a security is registered in this form, a transaction request, other than a request by one owner to transfer

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[1] IRS regulations require reporting of income information on a security.

(1) If the security is a bill, the price information will be used to comply with this requirement. The earnings reported to IRS for the year of a bill's maturity will be the difference between the par value of the bill and its price.

(a) If a bill is deposited in TREASURY DIRECT at original issue, the price shown will be the issue price.

(b) If a bill is transferred to TREASURY DIRECT from TRADES, the price shown will be that included in the transfer wire or supplied subsequently by the bill owner. If a price is not furnished, the price shown will be the weighted average price of the bill of the longest maturity having the identical CUSIP number.

(c) If a bill is transferred from one TREASURY DIRECT account to another, the price shown in the receiving (transferee's) account will be that shown on the transfer instructions or supplied subsequently by the transferee. If a price is not furnished, the price shown will be the weighted average price at original issue of the bill of the longest maturity having the identical CUSIP number, unless the term of the bill can be determined from the account record in which case the price shown will be the weighted average price at original issue of the bill with that term.

(2) If the security is a note or bond, the earnings reported to IRS for a year will be the periodic interest payments made during that year. If a note or bond is transferred to a TREASURY DIRECT account between interest payment dates, the earnings reported to IRS for the transferee will show the interest for the entire interest payment period. The price for notes and bonds will be shown on the statement of account for the account owner's information. The price shown will be determined following the procedures described above for bills.

(3) The security owner should report directly to the IRS (a) adjustments to annual earnings amounts arising from acquisition of notes and bonds between interest payment periods and (b) price corrections for bills reported after preparation of the reports to the IRS.

the security to the other owner, and other than a request for reinvestment, must be executed by both owners.

(B) *With right of survivorship.* In the names of two individuals, joined by the word "and", and followed by the words "with right of survivorship". A security so registered shall confer on each owner an undivided interest in the security and shall create a conclusive right of survivorship.

Example: Mark A. Doe and Mary B. Doe, with right of survivorship.

If a security is registered in this form, a transaction request, other than a request by one owner to transfer the security to the other owner, and other than a request for reinvestment, must be executed by both owners.

(ii) *"Or" form—"Coownership".* In the names of two individuals, joined by the word "or". A security so registered shall confer on each owner an undivided interest in the security and shall create a conclusive right of survivorship.

Example: Robert Woods or Laura Woods.

If a security is registered in this form, either coowner may make a transaction request, but if the Department receives conflicting requests at or about the same time, it may refuse to process them.

(iii) *Beneficiary.* In the name of one individual followed by the words "Payable on death to" (or "P.O.D.") another individual.

Example: Jack S. Jones, payable on death to Marie Jones.

If a minor or an incompetent is named as a beneficiary, the status of the beneficiary must be identified in the registration. A minor or an incompetent may not be designated as an owner. See paragraphs (b)(3) and (b)(4) of this section.

Example: John Perry, P.O.D. John Perry, Jr., a minor.

Registration in this form shall create ownership rights in the beneficiary only if the beneficiary survives the owner. During an owner's lifetime, a transaction request may be executed by the owner without the consent of the beneficiary. If the beneficiary dies before the owner, the security will be deemed to be registered in the owner's name alone.

(3) *Minors*—(i) *General.* A security may not be registered in the name of a minor in his or her own right as an owner. If a security is so registered and the Department thereafter receives evidence or information of that fact, the Department may suspend processing of any transaction request with respect to the security until either a legal guardian has been appointed or a natural guardian, as provided in paragraph (b)(3)(ii) of this section, has been recognized. Where a legal guardian is appointed, the Department will require a certified copy of the court order making such appointment. See § 357.28(c).

(ii) *Natural guardians of minors.* A security may be registered in the name of a natural guardian of a minor for whose estate no legal representative has been appointed. The parent with whom the minor resides will be recognized as the natural guardian. If the minor resides with both parents, either or both may be recognized as natural guardian(s). If the minor does not reside with either parent, the Department may recognize the person who furnishes the minor's chief support as the natural guardian.

Examples: Michael Jones, as natural guardian of Alice Jones, a minor.

Michael Jones and Evelyn Jones, as natural guardians of Alice Jones, a minor.

The security may also be registered in one of the forms authorized under paragraph (b)(2) of this section.

Examples: James Green, as natural guardian of William Green, a minor, and Anne Green, without right of survivorship.

James Green, as natural guardian of William Green, a minor, POD Lynne Green.

(iii) *Custodian under statute authorizing gifts to minors.* A security may be registered as provided under an applicable gift to minors statute.

Example: Virginia McDonald, as custodian for Lynne Gorman, under the New York Uniform Gifts to Minors Act.

Any request to alter the rights of ownership of the security must be made as provided in the applicable statute.

(4) *Incompetents*—(i) *General.* A security may not be registered in the name of an individual in his or her own right as an owner if that individual is incompetent. If a security is so registered, or if the owner subsequently becomes incompetent after the security is purchased, and the Department receives evidence or information of that fact, the Department may suspend any transaction with respect to the security until a legal guardian, conservator, or other representative of the incompetent's estate has been appointed, or a voluntary guardian, as provided in paragraph (b)(3)(ii) of this section, has been recognized. Where a legal guardian, conservator, or other representative is appointed, the Department will require a certified copy of the court order making such appointment. See § 357.28(c).

(ii) *Voluntary guardian of incompetent.* If a legal guardian has not been appointed, and the face amount of the securities held in one or more accounts in TREASURY DIRECT by an owner who had become incompetent does not exceed, in the aggregate, $20,000 (par amount), upon submission to, and approval by, the Department of an appropriate form, a relative or other person responsible for an incompetent's care and support will be recognized as voluntary guardian for purpose of making a transaction request under § 357.28(b)(4). All persons known by the Department to have an interest in the incompetent's estate, as required by the application form, must agree to the designation of the voluntary guardian. The security may be re-registered in the name of the voluntary guardian.

Example: Richard Melrose, as voluntary guardian for James W. Brundige.

(c) *Representatives.* A security may be registered in the name of a representative of an estate. If there is more than one representative, the names of some representatives may be omitted if followed by language that indicates the existence of other representatives. In such cases, those named in the registration shall be conclusively presumed by the Department to have authority to make a transaction request on behalf of all the representatives. The form of registration must identify the specific capacity of the representative(s) and the estate represented.

Examples: ABC National Bank of Chicago, Illinois and Harold Smith, co-executors of the will (or administrators of the estate) of Charles Johnson, deceased.

William Brown, guardian of the estate of Henry Jones, a minor.

Robert Smith, Richard Smith, *et al.*, executors of the will of Lorraine Smith, deceased.

If the representative is a trustee, the form of registration must identify specifically the authority or document creating the trust.

Examples: Sarah Jones and XYZ Trust Co., trustees under the will of Matthew Smith, deceased.

Cynthia Doe and Margaret Jones, trustees under agreement with Martha Roe, dated April 13, 1979.

Cynthia Doe, trustee under declaration of trust, dated April 13, 1979.

Richard Smith, James Jones, and Frank Brown, trustees under the will of Henry K. James, deceased.

ABC Corporation, Myrna Banker, *et al.*, trustees of Profit-Sharing Plan of Ace Manufacturing Co., under B/D resolution, dated May 18, 1975.

If there are several trustees designated as a board or authorized to act as a unit, their names should be omitted and the words, "Board of Trustees" substituted.

Example: Board of Trustees of Super Co. Retirement Fund, under collective bargaining agreement, dated March 18, 1969.

(d) *Private organizations (corporations, unincorporated associations and partnerships).* A security may be registered in the name of a private corporation, unincorporated association, or partnership. The full legal name of the organization, as set forth in its charter, articles of incorporation, constitution, partnership agreement, or other documents from which its powers are derived, must be included in the registration. The name may be followed by a reference to a particular account or fund, other than a trust fund, such as an escrow account.

(1) *A corporation.* The legal name of a business, fraternal, religious, or other private corporation must be followed by descriptive words indicating the corporate status unless the term "corporation" or the abbreviation "Inc." is part of the name or the name is that of a corporation or association organized under Federal law, such as a national bank or Federal savings and loan association.

Examples: Brown Manufacturing Co., a corporation (Education Fund).

The Apex Manufacturing Corporation.

XYZ National Bank of El Paso, Texas.

Goodworks, Unlimited, a not-for-profit corporation.

(2) *An unincorporated association.* Unless the name of a lodge, club, labor union, veterans or religious organization, or similar organization which is not incorporated (whether or not it is chartered by or affiliated with a parent organization which is incorporated) includes the words "an unincorporated association", the registration must include descriptive words indicating the organization's unincorporated status. A security may not be registered in the name of an unincorporated association if the legal title to its property or the legal title to the funds with which the security is to be purchased is held by trustees. In such a case, the security should be registered in the name of the trustees in accordance with paragraph (c) of this section. The term "unincorporated association" should not be used to describe a trust fund, a partnership or a business conducted under a trade name.

Examples: Local Union No. 13, Brotherhood of Operating Engineers, an unincorporated association.

The Simpson Society, an unincorporated association.

(3) *Partnership.* Unless the name of a partnership includes the word "partnership," the registration must include descriptive words indicating partnership status.

Examples: Red & Blue, a partnership.

Abco and Co., a nominee partnership.

(e) *Governmental entities and officers.* A security may be registered in the name of a State, county, city, town, village, school district, or other governmental entity, body, or corporation established by law. If a governmental officer is authorized to act as a trustee or custodian, a security may be registered in the title, or name and title, of the governmental officer. The form of registration should reflect the capacity in which the governmental entity or officer is authorized to hold property (*e.g.*, it may be authorized to hold property in its own name or as trustee or custodian).

Examples: Laura Woods, Treasurer, City of Twin Falls, Mo.

State of Michigan.

Village of Gaithersburg, Md.

Pennsylvania State Highway Administration (Highway Road Repair Fund).

Insurance Commissioner of Florida, trustee for benefit of policy holders of Sunshine Insurance Co. under F.S.A. Sec. 629.104.

Commonwealth of Virginia, in trust for Virginia Surplus Property Agency.

Gleason County Cemetery Commission, trustee under Md. Code Ann. Sec. 310.29.

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§ 357.22 Transfers.

(a) *General.* A security may be transferred only as authorized by this Part. A security may be transferred from an account in TREASURY DIRECT to an account in TRADES. A security may be transferred between accounts in TREASURY DIRECT, or from an account in TRADES to an account in TREASURY DIRECT, provided that prior to, or coincidental with, the transfer, an account master record has been established in accordance with the requirements of § 357.20(c).

(1) *Identification of securities to be transferred.* The owner must identify the securities to be transferred within TREASURY DIRECT, or from TREASURY DIRECT to TRADES, in the manner required by the transaction request form. If such identification is not provided, the request will not be processed and will be returned.

(2) *Denominational amounts.* A security may be transferred from an account only in a denominational amount authorized by the offering under which the security was issued. Any security remaining in the securities portfolio after the transfer must also be in an authorized denominational amount.

(3) *When transfer effective.* A transfer of a security within TREASURY DIRECT, or from TRADES to TREASURY DIRECT, is effective when an appropriate entry is made in the name of the transferee on the TREASURY DIRECT records. A transfer from TREASURY DIRECT to TRADES is effective as provided in Subpart B. If a transfer of a security from a transferor in TREASURY DIRECT to a transferee in TRADES cannot be completed, and the security is sent back to TREASURY DIRECT, the Department will redeposit the security in the transferor's account and treat the transferor as the owner.

(b) *Transfer upon death of an owner*—(1) *Right of survivorship.* If a security is registered in beneficiary form or a form which provides for a right of survivorship, upon the death of an owner, the beneficiary or survivor shall be the sole and absolute owner, notwithstanding any purported testamentary disposition by the decedent and notwithstanding any State or other law to the contrary. The Department will honor a transaction request by a beneficiary or a survivor (in the case of a security registered in the form described in § 357.21(b)(2)(i)(B)) only upon proof of death of an owner.

(2) *Succession under law of domicile.* If a security is registered in a form that does not provide for a right of survivorship, succession shall be determined in accordance with the applicable law and the terms of the domicile at the time of death.

(c) *Representative succession.* If a security is registered in the name of a representative who has died, resigned, or been removed, succession shall be determined in accordance with applicable law and theterms of the document under which the representative was acting.

(d) *Organizational succession*—(1) *Corporation and unincorporated association.* If a security is registered in the name of a corporation or an unincorporated association that has been dissolved, merged or consolidated into another organization, succession shall be determined in accordance with applicable law and the terms of the documents by which the dissolution, merger, or consolidation was effected.

(2) *Partnership.* If a partnership is dissolved or terminated, succession shall be determined in accordance with applicable law and the terms of the partnership agreement.

(e) *Succession of governmental officer.* If a security is registered in the name and title of a governmental officer who has died, resigned, or has been

removed, succession shall be determined in accordance with applicable law.

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§ 357.23 Judicial proceedings—sovereign immunity.

(a) *Department and Federal Reserve Banks not proper parties.* The Department and the Federal Reserve Banks are not proper defendants in a judicial proceeding involving competing claims to a security held in TREASURY DIRECT nor are they subject to any injunction or restraining order issued with respect to a security. The Department will not recognize a notice of a pending or contemplated judicial or administrative proceeding affecting a security in TREASURY DIRECT.

(b) *Orders—(1) Ownership rights.* The Department will recognize a final order entered by a court that affects ownership rights in a security in TREASURY DIRECT if:

(i) The order is consistent with the provisions of this Subpart and the terms and conditions of the security; and

(ii) The Department has received evidence of the order, as provided in paragraph (c) of this section.

(2) *Transaction request.* The Department will honor a transaction request submitted by a person appointed by a court and having authority under an order of a court to dispose of the security or payment with respect thereto if:

(i) The ordered disposition of the security or payments with respect thereto is consistent with the provisions of this Subpart and the terms and conditions of the security; and

(ii) The Department has received evidence of the appointment and order, as provided in paragraph (c) of this section.

(c) *Evidence required.* Before the Department will recognize an order or determination entered by a court, the Department must have received a certified copy of the judgment, decree, or order and any additional documents deemed necessary by the Department. A certificate from the clerk of the court, bearing the seal of the court, must also be submitted stating that the judgment, decree, or order is still in full force and has not been stayed or appealed, and that the time for filing an appeal has passed. Before the Department will honor a transaction request submitted by a person appointed by a court, the Department must receive a certified copy of the order making the appointment and describing specifically the person's authority, and any additional documents deemed necessary by the Department.

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§ 357.24 Availability and disclosure of TREASURY DIRECT records.

(a) *General.* All records with respect to a TREASURY DIRECT account are held confidential. Consistent with the Privacy Act (5 U.S.C. 552a), information relating to those accounts will be released only to the owner except:

(1) As provided in these regulations;

(2) As provided in Treasury regulations contained in 31 CFR Part 323; or

(3) As otherwise provided by law.

(b) *Inquiries by owners.* Information requested will be disclosed to an owner provided that:

(1) Sufficient information is provided to identify the owner; and

(2) Sufficient information is provided to identify the TREASURY DIRECT account.

(c) *Conditions for release.* A request for information will be honored only if, in the sole judgment of the Department or the Federal Reserve Bank to which the inquiry is made, the identify and right of the requester to the information have been established.

§ 357.25 Security interests.

(a) *General.* The Department will not recognize any notice or claim of a lien, encumbrance, or security interest of any kind, including a pledge, in a security in TREASURY DIRECT except as provided in § 357.23 and in paragraph (b) of this section.

(b) *Security for the performance of duty or obligation under Federal law.* The Department will accept and hold pursuant to the provisions of 31 U.S.C. § 9303, book-entry bonds, notes or bills submitted in lieu of a surety bond as security for the performance of a duty or obligation required by Federal law in accordance with said section.

§ 357.26 Payments.

(a) *General.* A payment by the Department with respect to a security shall be by direct deposit (electronic funds transfer), except when the Department determines that extraordinary circumstances exist that require payment by check.

(b) *Direct deposit.*

(1) *Information on deposit account at financial institution.*

(i) To establish an account in TREASURY DIRECT, the owner must furnish the name and ABA routing/transit number of the financial institution ("institution") to which payments with respect to a security are to be made, as well as a depositor name reference, deposit account number, and type or classification of account at the institution to which such payments are to be credited. The information should be furnished on the tender form if the account is being established on original issue, or in other cases on an appropriate form provided by the Department. To assure the accuracy of the account number and account type, as well as the name and ABA routing/transit number of the institution to which payments are to be made, the owner should consult with the institution in advance of the submission of the tender or transaction form. If the investor finds that the institution to be designated to receive TREASURY DIRECT payments has not agreed to receive direct deposit payments under 31 CFR Part 210, but is willing to do so, the investor should ask the institution to contact the Federal Reserve Bank of its district for enrollment advice.

(ii) Where the TREASURY DIRECT securities account is in the name of individual(s) in their own right, and the deposit account at the financial institution is in the name of individual(s) in their own right, the two accounts must contain at least one name that is common to both.

(iii) Where the deposit account to which payments are to be directed is held in the name of the financial institution itself acting as sole trustee, or as co-trustee, or is in the name of a commercially-managed investment fund, particular inquiry should first be made of the financial institution to make certain that the direct deposit payments can be received, and alternate arrangements made if it cannot do so.

(iv) In any case where, after the establishment of the securities account, it is determined that direct deposit payments cannot be accepted by the financial institution designated, under these circumstances, and pending new direct deposit instructions, payments will be made by check drawn in the name of the owner and sent to the correspondence address of record.

(v) All payments relating to a single account master record must be made to the same designated account at a financial institution.

(vi) The deposit account to which payments are directed should preferably be established in a form identical to the registration of the securities account, particularly where the securities are registered jointly or with right of survivorship, to assure that the rights of ownership and of survivorship can be more easily identified and preserved. Neither the United States nor any Federal Reserve Bank shall be liable for

any loss sustained because the interests of the holder(s) of a deposit account to which payments are made are not the same as the interests of the owner(s) of the security.

(vii) The designation of a financial institution by an owner to receive payments with respect to a security constitutes the appointment of that institution as the owner's agent for receipt of such payments. The crediting of a payment to the institution for deposit to an account in accordance with the instructions of the owner discharges the United States of any further responsibility for such payment. Where the institution has arranged with a Federal Reserve Bank to have payments credited through a designee institution, the crediting of a payment to that designee institution discharges the United States of any further responsibility for the amount of such payment.

(viii) Upon the request of a financial institution receiving direct deposit payments with respect to a security, the Department will change a deposit account number and/or type or classification of such account without requiring the submission of a transaction request from the owner of the security. The request must be made in accordance with implementing instructions issued by the Department. Such a request by a financial institution, however, will be deemed an agreement by the institution to indemnify the Department and the owner for any loss resulting from the requested change.

(2) *Agreement of financial institution.* Any financial institution which has agreed to accept credit payments under 31 CFR Part 210, or hereafter agrees to do so, shall be deemed to agree to accept payments under this Subpart. In any case, a financial institution's acceptance and handling of a payment made with respect to a security covered by this Subpart shall constitute its agreement to the provisions of this Subpart. An institution may not be designated to receive payments, as provided in this Subpart, unless it has agreed, or hereafter agrees, to receive direct deposit payments under 31 CFR Part 210.

(3) *Pre-notification*—(i) *General.* The institution designated for payment will receive shortly after a securities account has been established, but not less than fifteen (15) days prior to the first payment, a pre-notification message advising that an account maintained by such institution has been designated for direct deposit payment(s). A pre-notification message will also be sent whenever there is a change in the payment instructions. The pre-notification message shall contain the information prescribed in paragraph (b)(1)(i) of this section.

(ii) *Response to pre-notification.* The institution must respond to the pre-notification message within eight (8) calendar days after the date of receipt if the information as to the deposit account number and/or the type of account contained in the message does not agree with the records of the institution, or if the institution for any other reason has questions about the forthcoming payment, including its ability to credit the payment in accordance with this Subpart. Upon receipt of a response to the pre-notification message, the Department, as appropriate, will correct the payment instructions and send another pre-notification message, or contact the owner for further instructions. Where the circumstances indicate that there is insufficient time to effect the change, payment will be made by check. See paragraph (c) of this section.

(iii) *Effect of failure to reject.* If an institution does not reject or otherwise respond to a pre-notification message within the specified time period, the institution shall be deemed to have accepted the pre-notification and to have warranted to the Department that the information as to the deposit account number and/or the type of account contained in the message is accurate as of the time of such pre-notification.

(4) *Continuation of payment instructions.* Payment instructions for an account master record will apply to any and all securities held in that account until the Department:

(i) Receives a request from the owner to change such instructions; or

(ii) Receive a request from a financial institution to change such instructions in accordance with paragraph (b)(1)(vii) of this section; or

(iii) Receive advice from the financial institution holding the deposit account to which payment is being made that it has been closed; or

(iv) Receives notice of a change in status of a designated account or of the owner, as provided in paragraph (f) of this section.

(5) *Responsibility of financial institution.* An institution which receives a payment on behalf of its customer must:

(i) Upon receipt, credit the designated account and make the payment available for withdrawal or other use on the payment date. If a scheduled payment date is not a business day for the Federal Reserve Bank of the district in which the institution is located, payment will be made on the next-succeeding business day. If the institution is unable to credit the designated account, it shall return the payment by no later than the next business day after the date of receipt, with an electronic message or other response, explaining the reason for the return.

(ii) Promptly notify the Department when the designated account has been closed, or when it is on notice of the death or legal incapacity (as determined under applicable state law) of any individual named on such account, or when it is on notice of the dissolution of a corporation in whose name the deposit account is held. In all such cases, the institution, following receipt of notice by its organizational component responsible for direct deposit transactions, shall return to TREASURY DIRECT all payments received for the designated account.

(6) *Payments in error/duplicate payments.* If the Department or a Federal Reserve Bank has made a payment in error, the Department or Federal Reserve Bank will make a corrected payment, as appropriate, to the person(s) or entity entitled thereto under this Subpart. It will then promptly initiate action to recover the payment in error, and do so likewise on any duplicate payment that occurs, as follows:

(i) Send a written or electronic notice to the financial institution to which the payment was directed, which notice shall include the deposit account name reference, number, and the date and amount of the error in payment or duplicate payment that was not returned. See paragraphs (b)(3)(ii) and (b)(5)(ii) of this section. Upon receipt of this notice, the financial institution shall immediately return to the appropriate Federal Reserve Bank an amount equal to the payment in error or duplicate payment, where available. If the institution is unable to return payment for whatever reason, the institution shall immediately notify the Department or the Federal Reserve Bank, and provide such information as it has about the matter. The Department reserves the right to request the return of a partial amount of a payment in error or a duplicate payment.

(ii) Where the payment in error or a duplicate payment has not been returned, the Department or Federal Reserve Bank shall undertake such other actions as may be appropriate under the circumstances. To the extent permitted by law, the collection action may include deducting the amount owing from future payments made to the

deposit account to which the payment in error or duplicate payment was made.

(iii) If a financial institution has failed to respond in any way to the notice made pursuant to paragraph (b)(6)(i) of this section within sixty (60) calendar days of that notice, it will be deemed, by virtue of its acceptance of the direct deposit payment hereunder, to have authorized the Federal Reserve Bank to debit the amount of the payment in error or duplicate payment from the account maintained or utilized by the financial institution at the Federal Reserve Bank to which the payment in error or duplicate payment was credited. An institution designated by a financial institution to receive payment on its behalf, in authorizing such financial institution to utilize its account on the books of the Federal Reserve Bank, shall similarly be deemed to authorize such debit from that account. The institution to which payment has been directed and the owner of the TREASURY DIRECT account who designated the deposit account to which the payment has been deposited, shall be deemed to have agreed to provide information and assistance to effect recovery of a payment in error or duplicate payment under this subsection. The owner is further deemed to agree to any action permitted by law to effect collection of a payment in error or a duplicate payment.

(c) *Checks.* If a payment is not made by direct deposit, it shall be made by a check, drawn by a Federal Reserve Bank as fiscal agent of the United States, on the Federal Reserve Bank in its banking capacity ("fiscal agency check"), or drawn by the Department on itself ("Treasury check"). A fiscal agency check is governed by the regulations in 31 CFR Part 355. A Treasury check is governed by the regulations and statutes applicable to checks drawn on the United States or designated depositories of the United States (*i.e.*, 31 CFR Parts 235, 240, and 245). A check issued with respect to a security shall be made payable in the names of the owner(s) of the TREASURY DIRECT account and will be mailed to the correspondence address shown in the TREASURY DIRECT account.

(d) *Handling of payments by Federal Reserve Banks.* Each Federal Reserve Bank, as fiscal agent of the United States, shall receive payment in accordance with the information described in paragraph (b)(1)(i) of this section, and make payment to the designated institution by crediting it to the account of the designated institution, or of its designee, in accordance with the Federal Reserve Bank's operating circular governing such payments.

(e) *Timeliness of action.* If, because of circumstances beyond its control, the Department, a Federal Reserve Bank, or a financial institution is delayed beyond applicable time limits in taking any action with respect to a payment, the time for taking such action shall be extended as necessary until the cause of the delay ceases to operate.

(f) *Suspension of payments.* Upon receipt of notice that a designated deposit account has been closed, that an individual named on such account is dead or has been declared legally incompetent, or where a corporation is the owner, and it has been dissolved, the Department reserves the right to suspend payments and any transactions with respect to a security pending receipt of satisfactory evidence of entitlement. Payments will also be suspended in any case where the Department receives notice that an individual owner named on a securities account in TREASURY DIRECT is dead or has been declared legally incompetent, or in any case where the Department receives notice of a change in the name or status of an organization or representative named on a securities account in TREASURY DIRECT.

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§ 357.27 Reinvestment.

(a) *General.* Upon the request of an owner, the redemption proceeds of a security may be reinvested at maturity in a new security in the same form of registration, provided a new security is then being offered by the Department and provision for reinvestment is made in the offering. The new security must be in an authorized denominational amount and will be issued in accordance with the terms of the offering. If the new security is issued at a premium or with accrued interest, an additional payment will be required from the investor. If the new security is issued at a discount, the difference will be remitted to the owner.

(b) *Treasury bills.* A request by an owner for a single or successive reinvestment of a Treasury bill must be made in accordance with the terms prescribed on the tender form submitted at the time of purchase of the original bill, or by a subsequent transaction request received not less than twenty (20) calendar days prior to the maturity of the original bill. A request to revoke a direction to reinvest the proceeds of a bill must be received by the Department not less than twenty (20) calendar days prior to the maturity date of the bill. If either a request for reinvestment or revocation of a reinvestment request is received less than twenty (20) calendar days prior to maturity of the original bill, the Department may in its discretion act on such request if sufficient time remains for processing.

(c) *Issue date not coincidental with maturity date.* If the date on which a security matures or is called does not coincide with the issue date of the security being purchased through reinvestment, the Department may, at its option, hold the redemption proceeds in the same form of registration as the maturing or called security, but no interest shall accrue or be paid on such funds.

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§ 357.28 Transaction requests.

(a) *General.* Unless otherwise authorized by the Department, a transaction request must be submitted on a transaction request form. In the case of certain transactions specified by the Department, the owner's signature on the form must be certified or guaranteed, as provided in § 357.31. If the transaction request form is received more than six (6) months after its execution, it will not be honored by the Department and will be returned to the sender for further instructions.

(b) *Individuals*—(1) *General.* A transaction request must be signed by the owner of the security. In addition to any required certification, a transaction request form executed by a person by mark, *e.g.*, "(X)", must be witnessed by a disinterested person. The following language should be added to the form and be signed by the witness:

Witness to signature by mark

_____

Signature of witness

_____

Address of witness

(2) *Change of name.* If an individual's name has been changed from that appearing in the registration, the individual should sign both names to the transaction request form and state the manner in which the change occurred.

Example: Deborah L. Gains, changed by order of court from Deborah G. O'Brien.

The individual must provide evidence, such as a certified copy of a court order, which confirms the change, unless it is indicated that the change of name resulted from marriage.

Example: Catherine M. Cole, changed by marriage from Catherine T. Murray.

(3) *Natural guardians.* A transaction request involving a security registered in

the name of a natural guardian of a minor may be executed by the natural guardian. If a security is registered in the names of both parents as natural guardians of a minor, both must execute a transaction request. However, the Department will not honor a transaction request by the natural guardian(s):

(i) Which would transfer the security to a natural guardian in his or her own right; or

(ii) After the Department receives notice of the minor's attainment of majority, the qualification of a legal guardian or similar representative, or the death of the minor.

(4) *Voluntary guardians.* A transaction request involving a security belonging to an owner who has become incompetent may be executed by a voluntary guardian, but only after approval by the Department of the voluntary guardian's application for such designation. However, the Department will not honor a transaction request by the voluntary guardian:

(i) Which would transfer the security to a voluntary guardian in his or her own right; or

(ii) After the Department receives notice of the ward's restoration to competency, the qualification of a legal guardian or similar representative, or the death of the ward. See § 357.21(b)(4).

(c) *Representatives*—(1) *General.* A representative of an owner's estate, other than a trustee, may execute a transaction request form if the representative submits to the Department properly authenticated evidence of the authority to act. The evidence will not be accepted if dated more than six (6) months prior to the date of execution of the transaction request.

(2) *Estates closed.* If a security is registered in the name of an owner who is deceased and whose estate has been closed and the representative discharged, a transaction request must be made by the person(s) entitled to the security, as determined from the pertinent court records or the deceased owner's will, if any.

(3) *Estates not administered*—(i) *Special provisions under State laws.* If, under applicable State law, a person is entitled to or has been recognized or appointed to administer the estate of a deceased owner without court-supervised administration, that person may execute a transaction request involving a security belonging to the deceased owner, provided appropriate evidence of authority is submitted to the Department.

(ii) *Agreement of persons entitled.* If a representative of a deceased owner's estate has not been or is not to be appointed, the Department will honor an application for disposition of any securities belonging to the deceased owner pursuant to a written agreement provided that the Department is satisfied that:

(A) All persons entitled to share in the decedent's personal estate are parties to the agreement;

(B) Provision has been made for payment of all the decedent's debts; and

(C) The interests of any minor or incompetents have been protected.

(d) *Private organizations*—(1) *Corporations and unincorporated associations.* A transaction request involving a security registered in the name of a corporation or an unicorporate association (either in its own right or in a representative capacity), may be executed by an authorized person on its behalf. The request must be supported by evidence of the person's authority to act.

(2) *Partnerships.* A transaction request involving a security registered in the name of a partnership must be executed by a general partner.

(e) *Government entities.* A transaction request involving a security registered in the name of a State, county, city, school district, or other governmental entity, public body or corporation, must be executed by a authorized officer of the entity. The request must be supported by evidence of the officer's authority to act.

(f) *Public officers.* A transaction request involving a security registered in the title of a public officer must be executed by the officer. The request must be supported by evidence of incumbency.

(g) *Attorneys-in-fact.* A transaction request made by an attorney-in-fact must be accompanied by the original power of attorney or a properly authenticated copy. A power of attorney must be executed in the presence of a notary public or a certifying individual. See § 357.31. The power of attorney will not be accepted if it was executed more than two (2) years before the date the transaction request was executed, unless the power provides that the authority of the attorney-in-fact continues notwithstanding the incapacity of the principal. If two or more attorneys-in-fact are named, all must execute the transaction request unless the power authorizes fewer than all to act. A transaction request executed by an attorney-in-fact seeking transfer of a security to the attorney-in-fact will not be accepted unless expressly authorized by the document appointing the attorney-in-fact.

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§ 357.29 Time required for processing transaction request.

For purposes of a transaction request affecting payment instructions with respect to a security, a proper request must be received not less than twenty (20) calendar days preceding the next payment date. If the twentieth day preceding a payment date falls on a Saturday, Sunday, or a Federal holiday, the last day set for the receipt of a transaction request will be the last business day preceding that date. If a transaction request is received less than twenty (20) calendar days preceding a payment date, the Department may in its discretion act on such request if sufficient time remains for processing. If a transaction request is received too late for completion of the requested transaction, the transaction request will be acted upon with respect to future payments only.

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§ 357.30 Cases of delay or suspension of payment.

If evidence required by the Department in support of a transaction request is not received by the Department at least twenty (20) calendar days before the maturity date of the security, or if payment at maturity has been suspended pursuant to § 357.26(f), then, except as provided in § 357.27, in cases of reinvestment, the Department will redeem the security and hold the redemption proceeds in the same form of registration as the security redeemed, pending further disposition. No other interest shall accrue or be paid on such proceeds after the security is redeemed.

§ 357.31 Certifying individuals.

(a) *General.* The following individuals may certify signatures on transaction request forms:

(1) Officers and employees of depository institutions and officers of corporate central credit unions who have been authorized:

(i) generally to bind their respective institutions by their acts;

(ii) Unqualifiedly to guarantee signatures to assignments of securities; or

(iii) To certify assignments of securities.

(2) Officers and authorized employees of Federal Reserve Banks.

(3) Officers of Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives, the Central

Bank for Cooperatives, and Federal Home Loan Banks.

(4) Commissioned officers and warrant officers of the Armed Forces of the United States but only with respect to signatures on forms executed by Armed Forces personnel, civilian-field employees, and members of their families.

(5) Such other persons as the Commissioner of the Public Debt or his designee may authorize.

(b) *Foreign countries.* The following individuals are authorized to certify signatures on transaction request forms executed in a foreign country:

(1) United States diplomatic or consular officials.

(2) Managers and officers of foreign branches of depository institutions.

(3) Notaries public and other officers authorized to administer oaths, provided their official position and authority are certified by a United States diplomatic or consular official under seal of the office.

(c) *Duties and liabilities of certifying officers.*

(1) *General.* Except as specified in paragraph (c)(2) of this section, a certifying individual shall require that the transaction request form be signed in the certifying individual's presence after he or she has established the identity of the person seeking the certification. An employee who is not an officer should insert the words "Authorized signature" in the space provided for the title. A certifying individual and the organization of which the certifying individual is an officer or employee are jointly liable for any loss the United States may incur as a result of the individual's negligence.

(2) *Signature guaranteed.* The transaction request form need not be executed in the presence of a certifying individual if he or she unqualifiedly guarantees the signature, in which case the certifying individual shall, after the signature, endorse in the following form: "Signature guaranteed, First National Bank of Smithville, Smithville, NH, by A.B. Doe, President", and add the date. In guaranteeing a signature, the certifying individual and the organization of which the certifying officer is an officer or employee warrant to the Department that the signature is genuine and that the signer had legal capacity to execute the transaction request.

(3) *Absence of signature guaranteed by depository institution.* A transaction request form need not be actually signed by the owner in any case where a certifying individual associated with a depository institution has placed an endorsement on the form reading substantially as follows: "Absence of signature by owner and validity of transaction guaranteed, Second State Bank of Jonesville, Jonesville, NC, by B.R. Butler, Vice President". The endorsement shoud be dated, and the seal of the depository institution should be added. This form of endorsement is an unconditional guarantee to the Department that the depository institution is acting for the owner upper proper authorization.

(d) *Evidence of certifying individual's authority.* The authority of a certifying individual to act is evidenced by affixing to the certification the following:

(1) *Officers and employees of depository institutions*—The institution's seal, signature guarantee stamp, or, if the institution is an authorized paying or issuing agent for U.S. Savings Bonds, a legible imprint of the paying agent or the issuing agent's stamp.

(2) *Officers and authorized employees of Federal Reserve Banks*—Whatever is prescribed in procedures established by the Department.

(3) *Officers and employees of corporate central credit unions and other entities listed in paragraph (a)(3) of this section*—The entity's seal.

(4) *Notaries public, diplomatic or consular officials*—The official seal or stamp of the office. If the certifying individual has no seal or stamp, then the official's position must be certified by some other authorized individual, under seal or stamp, or otherwise proved to the satisfaction of the Department.

(5) *Commissioned or warrant officers of the United States Armed Forces*—A Statement which sets out the officer's rank and the fact that the person executing the transaction request is one whose signature the officer is authorized to certify under these regulations.

(e) *Interested persons not to act as certifying individual.* Neither the transferor, the transferee, nor any person having an interest in a security involved in the transaction may act as a certifying individual. However, an authorized officer or employee of a depository institution may act as a certifying individual on a transaction request for transfer of a security to the institution, or any request executed by another individual on behalf of the institution.

§ 357.32 Submission of transaction requests; further information.

Transaction requests and requests for forms and information may be submitted to any Federal Reserve Bank or to the Bureau of the Public Debt, TREASURY DIRECT, Washington, DC 20239–0001. A list of the addresses of Federal Reserve Banks will be available upon request to the Bureau. The Federal Reserve Banks, as fiscal agents of the United States, are authorized to perform such functions as may be delegated to them by the Department in order to carry out the provisions of this Part.

Subpart D—Additional Provisions

§ 357.40 Additional requirements.

In any case or any class of cases arising under these regulations, the Secretary of the Treasury ("Secretary") may require such additional evidence and a bond of indemnity, with or without surety, as may in the judgment of the Secretary be necessary for the protection of the interests of the United States.

§ 357.41 Waiver of regulations.

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of these regulations in any case or class of cases for the convenience of the United States or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not impair any existing rights, and the Secretary is satisfied that such action will not subject the United States to any substantial expense or liability.

§ 357.42 Liability of Department and Federal Reserve Banks.—[Reserved]

§ 357.43 Liability for transfers to and from TREASURY DIRECT.

A depository institution or other entity that transfers to, or receives, a security from TREASURY DIRECT is deemed to be acting as agent for its customer and agrees thereby to indemnify the United States and the Federal Reserve Banks for any claim, liability, or loss resulting from the transaction.

§ 357.44 Notice of attachment for securities in TRADES.—[Reserved]

§ 357.45 Supplements, amendments, or revisions.

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulations with respect to securities, including charges and fees for the maintenance and servicing of securities in book-entry form.

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